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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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NEW DELHI, THURSDAY, AUGUST 25, 2005 / BHADRA 3, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 25th August, 2005:—

BILL NO. 122 OF 2005

A Bill to repeal the Punjab General Sales Tax Act, 1948, as in force in the Union Territory of Chandigarh.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Punjab General Sales Tax (As in Force in the Union territory of Chandigarh) Repeal Act, 2005.

Short title.

2. The Punjab General Sales Tax Act, 1948, as in force in the Union territory of Chandigarh, is hereby repealed.

Repeal of Punjab Act 46 of 1948.

STATEMENT OF OBJECTS AND REASONS

By virtue of section 88 of the Punjab Reorganisation Act, 1966 (31 of 1966), the Punjab General Sales Tax Act, 1948 is applicable to the Union territory of Chandigarh. The Legislative Assembly of the State of Punjab has repealed the Punjab General Sales Tax Act, 1948 and has enacted in its place the Punjab Value Added Tax Act, 2005 which has come into force in the State of Punjab with effect from the 1st April, 2005.

2. In order to fall in line with the Government's policy on the introduction of the Value Added Tax regime on All India basis, it is proposed to extend the Punjab Value Added Tax Act, 2005 to the Union territory of Chandigarh but it will be possible only after the Punjab General Sales Tax Act, 1948 as in force in the Union territory of Chandigarh is repealed.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 17th August, 2005.

SHIVRAJ V. PATIL.

PRESIDENT'S RECOMMENDATION UNDER ARTICLE 117 OF
THE CONSTITUTION OF INDIA

[Copy of letter No. U-11014/1/2005-UTL, dated the 17th August, 2005 from
Shri Shivraj V. Patil, Minister of Home Affairs to the Secretary-General, Lok Sabha]

The President, having been informed of the subject matter of the Punjab General Sales Tax (as in force in the Union Territory of Chandigarh) Repeal Bill, 2005, recommends the introduction of the Bill in Lok Sabha under clause (1) of article 117 of the Constitution.

BILL NO. 123 OF 2005.

A Bill to consolidate the laws relating to food and to establish the Food Safety and Standards Authority of India for laying down science based standards for articles of food and to regulate their manufacture, storage, distribution, sale and import, to ensure availability of safe and wholesome food for human consumption and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Food Safety and Standards Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. It is hereby declared that it is expedient in the public interest that the Union should take under its control the food industry.

Short title,
extent and
commencement.

Declaration
as to
expediency of
control by
the Union.

Definitions.

3. (1) In this Act, unless the context otherwise requires,—

(a) “adulterant” means any material which is or could be employed for making the food unsafe or sub-standard, mis-branded or containing extraneous matter;

(b) “advertisement” means any audio or visual publicity, representation or pronouncement made by means of any light, sound, smoke, gas, print, electronic media, internet or website and includes through any notice, circular, label, wrapper, invoice or other documents;

(c) “Chairperson” means the Chairperson of the Food Authority;

(d) “claim” means any representation which states, suggests or implies that a food has particular qualities relating to its origin, nutritional properties, nature, processing, composition or otherwise;

(e) “Commissioner of Food Safety” means the Commissioner of Food Safety appointed under section 30;

(f) “consumer” means and includes person and families purchasing and receiving food in order to meet their personal needs;

(g) “contaminant” means any substance, whether or not added to food, but which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry or veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination and does not include insect fragments, rodent hairs and other extraneous matter;

(h) “Designated Officer” means the officer appointed under section 36;

(i) “extraneous matter” means any matter contained in an article of food which may be carried from the raw materials, packaging materials or process systems used for its manufacture or which is added to it, but such matter does not render such article of food unsafe;

(j) “food” means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food, genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum, and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances;

Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of this Act having regards to its use, nature, substance or quality;

(k) “food additive” means any substance not normally consumed as a food by itself or used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such food but does not include “contaminants” or substances added to food for maintaining or improving nutritional qualities;

(l) “Food Analyst” means an analyst appointed under section 45;

(m) “Food Authority” means the Food Safety and Standards Authority of India established under section 4;

(n) "food business" means any undertaking, whether for profit or not and whether public or private, carrying out any of the activities related to any stage of manufacture, processing, storage, transportation and distribution of food and includes food services, sale of food or food ingredients;

(o) "food business operator" in relation to food business means a person by whom the business is carried on or owned and is responsible for ensuring the compliance of this Act, rules and regulations made thereunder;

(p) "food laboratory" means any food laboratory or institute established by the Central or a State Government or any other agency and accredited by National Accreditation Board for Testing and Calibration Laboratories or an equivalent accreditation agency and recognised by the Food Authority under section 43;

(q) "food safety" means assurance that food is acceptable for human consumption according to its intended use;

(r) "food safety audit" means a systematic and functionally independent examination of food safety measures adopted by manufacturing units to determine whether such measures and related results meet with objectives of food safety and the claims made in that behalf;

(s) "Food Safety Management System" means the adoption of Good Manufacturing Practices, Good Hygienic Practices, Hazard Analysis and Critical Control Point and such other practices as may be specified by regulation, for the food business;

(t) "Food Safety Officer" means an officer appointed under section 37;

(u) "hazard" means a biological, chemical or physical agent in, or condition of, food with the potential to cause an adverse health effect;

(v) "import" means bringing into India any article of food by land, sea or air;

(w) "improvement notice" means a notice issued under section 32 of this Act;

(x) "infant food" and "infant milk substitute" shall have the meanings assigned to them in clauses (f) and (g) of sub-section (1) of section 2 of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992, respectively;

(y) "ingredient" means any substance, including a food additive used in the manufacture or preparation of food and present in the final product, possibly in a modified form;

(z) "label" means any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed, graphic, perforated, stamped or impressed on or attached to container, cover, lid or crown of any food package and includes a product insert;

(za) "licence" means a license granted under section 31;

(zb) "local area" means any area, whether urban or rural, notified by the Commissioner of Food Safety, to be a local area for the purposes of this Act;

(zc) "manufacture" means a process or adoption or any treatment for conversion of ingredients into an article of food, which includes any sub-process, incidental or ancillary to the manufacture of an article of food;

(zd) "manufacturer" means a person engaged in the business of manufacturing any article of food for sale and includes any person who obtains such article from another person and packs and labels it for sale or only labels it for such purposes;

(ze) "Member" means Member of the Food Authority and includes the Chairperson;

(zf) "misbranded food" means an article of food—

(A) if it is purported, or is represented to be, or is being—

(i) offered or promoted for sale with false, misleading or deceptive claims either;

(a) upon the label of the package, or

(b) through advertisement, or

(ii) sold by a name which belongs to another article of food; or

(iii) offered or promoted for sale under the name of a fictitious individual or company as the manufacturer or producer of the article as borne on the package containing the article or the label on such package; or

(B) if the article is sold in packages which have been sealed or prepared by or at the instance of the manufacturer or producer bearing his name and address but—

(i) the article is an imitation of, or is a substitute for, or resembles in a manner likely to deceive, another article of food under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true character; or

(ii) the package containing the article or the label on the package bears any statement, design or device regarding the ingredients or the substances contained therein, which is false or misleading in any material particular, or if the package is otherwise deceptive with respect to its contents; or

(iii) the article is offered for sale as the product of any place or country which is false; or

(C) if the article contained in the package—

(i) contains any artificial flavouring, colouring or chemical preservative and the package is without a declaratory label stating that fact or is not labelled in accordance with the requirements of this Act or regulations made thereunder or is in contravention thereof; or

(ii) is offered for sale for special dietary uses, unless its label bears such information as may be specified by regulation, concerning its vitamins, minerals or other dietary properties in order sufficiently to inform its purchaser as to its value for such use; or

(iii) is not conspicuously or correctly stated on the outside thereof within the limits of variability laid down under this Act.

(zg) "notification" means a notification published in the Official Gazette;

(zh) "package" means a box, bottle, casket, tin, barrel, case, pouch, receptacle, sack, bag, wrapper or other thing in pre-packed condition, in which an article of food is packed;

(zi) "premises" include any shop, stall, hotel, restaurant, airline services and food canteens, place or vehicle or vessel where any article of food is sold or manufactured or stored for sale;

(zj) "prescribed" means prescribed by rules made by the Central Government or the State Government, as the case be under this Act;

(zk) "primary food" means an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer;

(zl) "prohibition order" means an order issued under section 33 of this Act;

(zm) "risk", in relation to any article of food, means the probability of an adverse effect on the health of consumers of such food and the severity of that effect, consequential to a food hazard;

(zn) "risk analysis", in relation to any article of food, means a process consisting of three components, *i.e.*, risk assessment, risk management and risk communication;

(zo) "risk assessment" means a scientifically based process consisting of the following steps: (i) hazard identification, (ii) hazard characterization, (iii) exposure assessment, and (iv) risk characterization;

(zp) "risk communication" means the interactive exchange of information and opinions throughout the risk analysis process concerning risks, risk-related factors and risk perceptions, among risk assessors, risk managers, consumers, industry, the academic community and other interested parties, including the explanation of risk assessment findings and the basis of risk management decisions;

(zq) "risk management" means the process, distinct from risk assessment, of evaluating policy alternatives, in consultation with all interested parties considering risk assessment and other factors relevant for the protection of health of consumers and for the promotion of fair trade practices, and, if needed, selecting appropriate prevention and control options;

(zr) "sale" with its grammatical variations and cognate expressions, means the sale of any article of food, whether for cash or on credit or by way of exchange and whether by wholesale or retail, for human consumption or use, or for analysis, and includes an agreement for sale, an offer for sale, the exposing for sale or having in possession for sale of any such article, and includes also an attempt to sell any such article;

(zs) "sample" means a sample of any article of food taken under the provisions of this Act or any rules and regulations made thereunder;

(zt) "specified by regulations" means specified by regulations made by the Food Authority.

(zu) "standard", in relation to any article of food, means the standards notified by the Food Authority;

(zv) "State Government" in relation to a Union territory means the Administrator of that Union territory appointed by the President under article 239 of the Constitution;

(zw) "substance" includes any natural or artificial substance or other matter, whether it is in a solid state or in liquid form or in the form of gas or vapour;

(zx) "sub-standard" – an article of food shall be deemed to be sub-standard if it does not meet the specified standards but not so as to render the article of food unsafe;

(zy) "Tribunal" means the Food Safety Appellate Tribunal established under section 70;

(zz) "unsafe food" means an article of food whose nature, substance or quality is so affected as to render it injurious to health:

(i) by the article itself, or its package thereof, which is composed, whether wholly or in part, of poisonous or deleterious substances; or

(ii) by the article consisting, wholly or in part, of any filthy, putrid, rotten, decomposed or diseased animal substance or vegetable substance; or

(iii) by virtue of its unhygienic processing or the presence in that article of any harmful substance; or

(iv) by the substitution of any inferior or cheaper substance whether wholly or in part; or

(v) by addition of a substance directly or as an ingredient which is not permitted; or

(vi) by the abstraction, wholly or in part, of any of its constituents; or

(vii) by the article being so coloured, flavoured or coated, powdered or polished, as to damage or conceal the article or to make it appear better or of greater value than it really is; or

(viii) by the presence of any colouring matter or preservatives other than that specified in respect thereof; or

(ix) by the article having been infected or infested with worms, weevils or insects; or

(x) by virtue of its being prepared, packed or kept under in sanitary conditions; or

(xi) by virtue of its being mis-branded or sub-standard or food containing extraneous matter.

(2) Any reference in this Act to a law which is not in force in the State of Jammu and Kashmir shall, in relation to that State, be construed as a reference to the corresponding Law, if any, in force in that State.

CHAPTER II

FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA

Establishment
of Food
Safety and
Standards
Authority of
India.

4. (1) The Central Government shall, by notification, establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Food Authority shall be a body corporate by the name aforesaid, having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall, by the said name, sue or be sued.

(3) The head office of the Food Authority shall be at Delhi.

(4) The Food Authority may establish its offices at any other place in India.

5. (1) The Food Authority shall consist of a Chairperson and the following eighteen members, namely:—

(a) seven Members, not below the rank of a Joint Secretary to the Government of India, to be appointed by the Central Government, to respectively represent the Ministries or Departments of the Central Government dealing with—

(i) Agriculture,

(ii) Commerce,

(iii) Consumer Affairs,

(iv) Food Processing,

(v) Health,

(vi) Legislative Affairs,

(vii) Small Scale Industries

Composition
of Food
Authority and
qualifications
for
appointment
of its
Chairperson
and other
Members.

who shall be Members *ex officio*;

(b) two representatives from food industry of which one shall be from small scale industries;

(c) two representatives from consumer organizations;

(d) one eminent food technologist or scientist;

(e) five members to be appointed by rotation every three years, one each in seriatim from the Zones as specified in the First Schedule to represent the States and the Union territories;

(f) one person to represent farmers organisation.

(2) The Chairperson and other Members of the Food Authority shall be appointed in such a manner so as to secure the highest standards of competence, broad range of relevant expertise, and shall represent, the broadest possible geographic distribution within the country.

(3) The Chairperson shall be appointed by the Central Government from amongst the persons of eminence in the field of food science or from amongst the persons from the administration who have been associated with the subject and is either holding or has held the position of not below the rank of Secretary to the Government of India.

(4) The Chairperson and the Members other than *ex officio* Members of the Food Authority shall be appointed by the Central Government on the recommendations of the Selection Committee.

(5) The Chairperson or Members other than *ex officio* Members of the Food Authority shall not hold any other office.

6. (1) The Central Government shall, for the purpose of selection of the Chairperson and the Members other than *ex officio* Members of the Food Authority, constitute a Selection Committee consisting of—

(a) Cabinet Secretary — Chairperson,

(b) Secretary-in-charge of the Ministry of Food Processing Industries as the convener—Member,

(c) Secretary-in-charge of the Ministries or the Departments of the Central Government dealing with Health, Legislative and Personnel — Members,

(d) Chairman of the Public Enterprises Selection Board — Member,

(e) An eminent food technologist to be nominated by the Central Government — Member.

Selection
Committee
for selection
of
Chairperson
and Members
of Food
Authority.

Explanation.— For the purposes of clause (e), the Central Government shall nominate a person from amongst persons holding the post of Director or the Head, by whatever name called, of any national research or technical institution.

(2) The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of the Chairperson or a Member of the Food Authority and three months before the superannuation or completion of the term of office of the Chairperson or any Member of that Authority, make a reference to the Selection Committee for filling up of the vacancy.

(3) The Selection Committee shall finalise the selection of the Chairperson and Members of the Food Authority within two months from the date on which the reference is made to it.

(4) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(5) Before recommending any person for appointment as a Chairperson or other Member of the Food Authority, the Selection Committee shall satisfy itself that such person does not have any financial or other interest, which is likely to affect prejudicially his functions as a Member.

(6) No appointment of the Chairperson or other Member of the Food Authority shall be invalid merely by reason of any vacancy in the Selection Committee.

Term of office, salary, allowances and other conditions of service of Chairperson and Members of Food Authority.

7. (1) The Chairperson and the members other than *ex officio* Members shall hold office for a term of three years from the date on which they enter upon their offices, and shall be eligible for re-appointment for a further period of three years:

Provided that no Chairperson or a member other than *ex officio* Member shall hold office as such after he has attained—

(a) in the case of the Chairperson, the age of sixty-five years, and

(b) in the case of a Member, the age of sixty-two years.

(2) The salary and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members other than *ex-officio* Members shall be such as may be prescribed by the Central Government.

(3) The Chairperson and every Member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form and in such manner and before such authority as may be prescribed by the Central Government.

(4) Notwithstanding anything contained in sub-section (1), the Chairperson or any Member may—

(a) relinquish his office by giving in writing to the Central Government a notice of not less than three months; or

(b) be removed from his office in accordance with the provisions of section 8.

(5) The Chairperson or any Member ceasing to hold office as such shall not represent any person before the Food Authority or any State Authority in any manner.

Removal of Chairperson and Members of Food Authority.

8. (1) Notwithstanding anything contained in sub-section (1) of section 7, the Central Government may, by order, remove from office the Chairperson or any other Member, if the Chairperson or as the case may be, such other Member,—

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as a Member; or

(d) has acquired such financial or other interests as is likely to affect prejudicially his functions as a Member; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) No Member shall be removed under clauses (d) and (e) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter.

Officers and other employees of Food Authority.

9. (1) There shall be a Chief Executive Officer of the Food Authority, not below the rank of Additional Secretary to the Government of India, who shall be *ex officio* Commissioner of Food Safety, to be appointed by the Central Government.

(2) The Food Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required to the Food Authority in the discharge of its functions.

(3) The salaries and allowances payable to, and other conditions of service of, the Chief Executive Officer, officers and other employees shall be such as may be specified by regulations by the Food Authority with the approval of the Central Government.

10. (1) The Chief Executive Officer shall be the legal representative of the Food Authority and shall be responsible for—

Functions of
the Chief
Executive
Officer.

- (a) the day-to-day administration of the Food Authority;
- (b) drawing up of proposal for the Food Authority's work programmes in consultation with the Central Advisory Committee;
- (c) implementing the work programmes and the decisions adopted by the Food Authority;
- (d) ensuring the provision of appropriate scientific, technical and administrative support for the Scientific Committee and the Scientific Panel;
- (e) ensuring that the Food Authority carries out its tasks in accordance with the requirements of its users, in particular with regard to the adequacy of the services provided and the time taken;
- (f) the preparation of the statement of revenue and expenditure and the execution of the budget of the Food Authority; and
- (g) developing and maintaining contact with the Central Government, and for ensuring a regular dialogue with its relevant committees.

(2) Every year, the Chief Executive Officer shall submit to the Food Authority for approval—

- (a) a general report covering all the activities of the Food Authority in the previous year;
- (b) programmes of work;
- (c) the annual accounts for the previous year; and
- (d) the budget for the coming year.

(3) The Chief Executive Officer shall, following adoption by the Food Authority, forward the general report and the programmes to the Central Government and the State Governments and shall have them published.

(4) The Chief Executive Officer shall approve all financial expenditure of the Food Authority and report on the Authority's activities to the Central Government.

(5) The Chief Executive Officer shall exercise the powers of the Commissioner of Food Safety while dealing with matters relating to food safety of such articles.

(6) The Chief Executive Officer shall have administrative control over the officers and other employees of the Food Authority.

11. (1) The Food Authority shall, by notification, establish a Committee to be known as the Central Advisory Committee.

Central
Advisory
Committee.

(2) The Central Advisory Committee shall consist of two members each to represent the interests of food industry, agriculture, consumers, relevant research bodies and food laboratories, and all Commissioners of Food Safety, and the Chairperson of the Scientific Committee shall be *ex officio* member.

(3) The representatives of the concerned Ministries or Departments of the Central Government in Agriculture, Animal Husbandry and Dairying, Bio-technology, Commerce and Industry, Consumer Affairs, Environment and Forests, Food Processing Industries, Health, Panchayati Raj, Small Scale Industries and Food and Public Distribution shall be invitees to the deliberations of the Central Advisory Committee.

(4) The Chief Executive Officer shall be *ex officio* Chairperson of the Central Advisory Committee.

(5) The Central Advisory Committee shall follow such rules of procedure including its transaction of business as may be specified by regulations.

Functions of
Central
Advisory
Committee.

12. (1) The Central Advisory Committee shall ensure close co-operation between the Food Authority and the enforcement agencies and organisations operating in the field of food.

(2) The Central Advisory Committee shall advise the Food Authority on—

(a) the performance of its duties under this section and in particular in drawing up of a proposal for the Food Authority's work programme,

(b) on the prioritisation of work,

(c) identifying potential risks,

(d) pooling of knowledge, and

(e) such other functions as may be specified by regulations.

(3) The Central Advisory Committee shall meet regularly at the invitation of the Chairperson of Central Advisory Committee or at the request of at least one third of its members, and not less than three times a year.

Scientific
Panels.

13. (1) The Food Authority shall establish scientific panels, which shall consist of independent scientific experts.

(2) The Scientific Panel shall invite the relevant industry and consumer representative in its deliberations.

(3) Without prejudice to the provisions of sub-section (1), the Food Authority may establish as many Scientific Panels as it considers necessary in addition to the Panels on:

(a) food additives, flavourings, processing aids and materials in contact with food;

(b) pesticides and antibiotics residues;

(c) genetically modified organisms and foods;

(d) functional foods, nutraceuticals, dietetic products and other similar products;

(e) biological hazards;

(f) contaminants in the food chain;

(g) labelling ; and

(h) method of sampling and analysis.

(4) The Food Authority may from time to time re-constitute the Scientific Panels by adding new members or by omitting the existing members or by changing the name of the panel as the case may be.

Scientific
Committee.

14. (1) The Food Authority shall constitute Scientific Committee which shall consist of the Chairpersons of the Scientific Panels and six independent scientific experts not belonging or affiliated to any of the Scientific Panels.

(2) The Scientific Committee shall be responsible for providing the scientific opinions to the Food Authority, and shall have the powers, where necessary, of organising public hearings.

(3) The Scientific Committee shall be responsible for the general co-ordination necessary to ensure consistency of the scientific opinion procedure and in particular with regard to the adoption of working procedures and harmonisation of working methods of the Scientific Panel.

(4) The Scientific Committee shall provide opinions on multi-sectoral issues falling within the competence of more than one Scientific Panel, and on issues which do not fall within the competence of any of the Scientific Panel.

(5) Wherever necessary, and particularly in the case of subjects which do not fall within the competence of any of the Scientific Panel, the Scientific Committee shall set up working groups and in such cases, it shall draw on the expertise of those working groups when establishing scientific opinions.

15. (1) The members of the Scientific Committee, who are not members of the Scientific Panel and the members of the Scientific Panel shall be appointed by the Food Authority, for a period of three-years, which shall be renewable, for such period, and the vacancy notice shall be published in the relevant leading scientific publications and on the Food Authority's website for a call for expressions of interest.

Procedure for
Scientific
Committee
and Scientific
Panel.

(2) The Scientific Committee and the Scientific Panel shall each choose a Chairperson from amongst their members.

(3) The Scientific Committee and the Scientific Panel shall act by a majority of their members and the views of the members shall be recorded.

(4) The procedure for the operation and co-operation of the Scientific Committee and the Scientific Panel shall be specified by regulations.

(5) These procedures shall relate in particular to—

(a) the number of times that a member can serve consecutively on a Scientific Committee or Scientific Panel;

(b) the number of members in each Scientific Panel;

(c) the procedure for re-imbursing the expenses of members of the Scientific Committee and the Scientific Panel;

(d) the manner in which tasks and requests for scientific opinions are assigned to the Scientific Committee and the Scientific Panel;

(e) the creation and organisation of the working groups of the Scientific Committee and the Scientific Panel, and the possibility of external experts being included in those working groups;

(f) the possibility of observers being invited to meetings of the Scientific Committee and the Scientific Panel;

(g) the possibility of organising public hearings; and

(h) quorum of the meeting, meeting notice, agenda of the meeting and such other matters.

16. (1) It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing, distribution, sale and import of food so as to ensure safe and wholesome food.

Duties and
functions of
Food
Authority.

(2) Without prejudice to the provisions of sub-section (1), the Food Authority may by regulations specify—

(a) the standards and guidelines in relation to articles of food and specifying an appropriate system for enforcing various standards notified under this Act;

(b) the limits for use of food additives, crop contaminants, pesticide residues, residues of veterinary drugs, heavy metals, processing aids, myco-toxins, antibiotics and pharmacological active substances and irradiation of food;

(c) the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food safety management system for food businesses;

(d) the procedure and the enforcement of quality control in relation to any article of food imported into India;

(e) the procedure and guidelines for accreditation of laboratories and notification of the accredited laboratories;

(f) the method of sampling, analysis and exchange of information among enforcement authorities;

(g) conduct survey of enforcement and administration of this Act in the country;

(h) food labelling standards including claims on health, nutrition, special dietary uses and food category systems for foods; and

(i) the manner in which and the procedure subject to which risk analysis, risk assessment, risk communication and risk management shall be undertaken.

(3) The Food Authority shall also—

(a) provide scientific advice and technical support to the Central Government and the State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety and nutrition;

(b) search, collect, collate, analyse and summarise relevant scientific and technical data particularly relating to—

(i) food consumption and the exposure of individuals to risks related to the consumption of food;

(ii) incidence and prevalence of biological risk;

(iii) contaminants in food ;

(iv) residues of various contaminants;

(v) identification of emerging risks ; and

(vi) introduction of rapid alert system ;

(c) promote, co-ordinate and issue guidelines for the development of risk assessment methodologies and monitor and conduct and forward messages on the health and nutritional risks of food to the Central Government, State Governments and Commissioners of Food Safety;

(d) provide scientific and technical advice and assistance to the Central Government and the State Governments in implementation of crisis management procedures with regard to food safety and to draw up a general plan for crisis management and work in close co-operation with the crisis unit set up by the Central Government in this regard ;

(e) establish a system of network of organisation with the aim to facilitate a scientific co-operation framework by the co-ordination of activities, the exchange of information, the development and implementation of joint projects, the exchange of expertise and best practices in the fields within the Food Authority's responsibility;

(f) provide scientific and technical assistance to the Central Government and the State Governments for improving co-operation with international organisations ;

(g) take all such steps to ensure that the public, consumers, interested parties and all levels of panchayats receive rapid, reliable, objective and comprehensive information through appropriate methods and means;

(h) provide, whether within or outside their area, training programmes in food safety and standards for persons who are or intend to become involved in food businesses, whether as food business operators or employees or otherwise;

(i) undertake any other task assigned to it by the Central Government to carry out the objects of this Act;

(j) contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards;

(k) contribute, where relevant and appropriate, to the development of agreement on recognition of the equivalence of specific food related measures;

(l) promote co-ordination of work on food standards undertaken by international governmental and non-governmental organisations;

(m) promote consistency between international technical standards and domestic food standards while ensuring that the level of protection adopted in the country is not reduced; and

(n) promote general awareness as to food safety and food standards.

(4) The Food Authority shall make it public without undue delay—

(a) the opinions of the Scientific Committee and the Scientific Panel immediately after adoption;

(b) the annual declarations of interest made by members of the Food Authority, the Chief Executive Officer, members of the Advisory Committee and members of the Scientific Committee and Scientific Panel, as well as the declarations of interest if any, made in relation to items on the agendas of meetings;

(c) the results of its scientific studies; and

(d) the annual report of its activities.

(5) The Food Authority may, from time to time give such directions, on matters relating to food safety and standards, to the Commissioner of Food Safety, who shall be bound by such directions while exercising his powers under this Act;

(6) The Food Authority shall not disclose or cause to be disclosed to third parties confidential information that it receives for which confidential treatment has been requested and has been acceded, except for information which must be made public if circumstances so require, in order to protect public health.

17. (1) The Food Authority shall meet at the head office or any of its offices at such time as the Chairperson may direct, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at its meetings) as may be specified by regulations.

Proceedings
of Food
Authority.

(2) If the Chairperson is unable to attend a meeting of the Food Authority, any other Member nominated by the Chairperson in this behalf and, in the absence of such nomination or where there is no Chairperson, any Member chosen by the Members present from amongst themselves, shall preside at the meeting.

(3) All questions which come up before any meeting of the Food Authority shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson or the person presiding over the meeting shall have the right to exercise a second or casting vote.

(4) All orders and decisions of the Food Authority shall be authenticated by the Chief Executive Officer.

(5) The Chief Executive Officer shall take part in the meetings of the Food Authority but without a right to vote.

(6) The Food Authority may invite the Chairperson of the Scientific Committee to attend its meetings but without a right to vote.

(7) No act or proceedings of the Food Authority shall be questioned or invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Food Authority.

CHAPTER III

GENERAL PRINCIPLES OF FOOD SAFETY

General principles to be followed in administration of Act.

18. The Central Government, the State Governments, the Food Authority and other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following principles, namely:—

(1) (a) endeavour to achieve an appropriate level of protection of human life and health and the protection of consumers' interests, including fair practices in all kind of food trade with reference to food safety standard and practices;

(b) carry out risk management which shall include taking into account the results of risk assessment, and other factors which in the opinion of the Food Authority are relevant to the matter under consideration where the conditions are relevant, in order to achieve the general objectives of regulations;

(c) where in any specific circumstances, on the basis of assessment of available information, the possibility of harmful effects on health is identified but scientific uncertainty persists, provisional risk management measures necessary to ensure appropriate level of health protection may be adopted, pending further scientific information for a more comprehensive risk assessment;

(d) the measures adopted on the basis of clause (c) shall be proportionate and no more restrictive of trade than is required to achieve appropriate level of health protection, regard being had to technical and economic feasibility and other factors regarded as reasonable and proper in the matter under consideration;

(e) the measures adopted shall be reviewed within a reasonable period of time, depending on the nature of the risk to life or health being identified and the type of scientific information needed to clarify the scientific uncertainty and to conduct a more comprehensive risk assessment;

(f) in cases where there are reasonable grounds to suspect that a food may present a risk for human health, then, depending on the nature, seriousness and extent of that risk, the Food Authority and the Commissioner of Food Safety shall take appropriate steps to inform the general public of the nature of the risk to health, identifying to the fullest extent possible the food or type of food, the risk that it may present, and the measures which are taken or about to be taken to prevent, reduce or eliminate that risk; and

(g) where any food which fails to comply with food safety requirements is part of a batch, lot or consignment of food of the same class or description, it shall be presumed until the contrary is proved, that all of the food in that batch, lot or consignment fails to comply with those requirements.

(2) The Food Authority shall, while framing regulations or specifying standards under this Act—

(a) take into account—

(i) prevalent practices and conditions in the country including agricultural practices and handling, storage and transport conditions; and

(ii) international standards and practices, where international standards or practices exist or are in the process of being formulated,

unless it is of opinion that taking into account of such prevalent practices and conditions or international standards or practices or any particular part thereof would

not be effective or appropriate means for securing the objectives of such regulations or where there is a scientific justification or where they would result in a different level of protection from the one determined as appropriate in the country;

(b) determine food standards on the basis of risk analysis except where it is of opinion that such analysis is not appropriate to the circumstances or the nature of the case;

(c) undertake risk assessment based on the available scientific evidence and in an independent, objective and transparent manner;

(d) ensure that there is open and transparent public consultation, directly or through representative bodies including all levels of panchayats, during the preparation, evaluation and revision of regulations, except where it is of opinion that there is an urgency concerning food safety or public health to make or amend the regulations in which case such consultation may be dispensed with:

Provided that such regulations shall be in force for not more than six months.

(e) ensure protection of the interests of consumers and shall provide a basis for consumers to make informed choices in relation to the foods they consume;

(f) ensure prevention of—

(i) fraudulent, deceptive or unfair trade practices which may mislead or harm the consumer; and

(ii) unsafe or contaminated or sub-standard food.

CHAPTER IV

GENERAL PROVISIONS AS TO ARTICLES OF FOOD

19. No article of food shall contain any food additive or processing aid unless it is in accordance with the provisions of this Act and regulations made thereunder.

Use of food additive or processing aid.

Explanation.—For the purposes of this section, “processing aid” means any substance or material, not including apparatus or utensils, and not consumed as a food ingredient by itself, used in the processing of raw materials, foods or its ingredients to fulfil a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

20. No article of food shall contain any contaminant, naturally occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by regulations.

Contaminants, naturally occurring toxic substances, heavy metals, etc.

21. (1) No article of food shall contain insecticides or pesticides residue, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess of such tolerance limit as may be specified by regulations.

Pesticides, veterinary drugs residues, antibiotic residues and micro-biological counts.

(2) No insecticide shall be used directly on article of food except fumigants registered and approved under the Insecticides Act, 1968.

46 of 1968.

Explanation.—For the purposes of this section,—

(1) “pesticide residue” means any specified substance in food resulting from the use of a pesticide and includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products and impurities considered to be of toxicological significance and also includes such residues coming into food from environment;

(2) "residues of veterinary drugs" include the parent compounds or their metabolites or both in any edible portion of any animal product and include residues of associated impurities of the veterinary drug concerned.

Genetically
modified
foods, organic
foods,
functional
foods,
proprietary
foods, etc.

22. Save as otherwise provided under this Act and regulations made thereunder, no person shall manufacture, distribute, sell or import any novel food, genetically modified articles of food, irradiated food, organic foods, foods for special dietary uses, functional foods, nutraceuticals, health supplements, proprietary foods and such other articles of food which the Central Government may notify in this behalf.

Explanation.—For the purposes of this section,—

(1) "foods for special dietary uses or functional foods or nutraceuticals or health supplements" means:

(a) foods which are specially processed or formulated to satisfy particular dietary requirements which exist because of a particular physical or physiological condition or specific diseases and disorders and which are presented as such wherein the composition of these foodstuffs must differ significantly from the composition of ordinary foods of comparable nature, if such ordinary foods exist and may contain one or more of the following ingredients, namely:—

(i) plants or botanicals or their parts in the form of powder, concentrate or extract in water, ethyl alcohol or hydro alcoholic extract, single or combination;

(ii) minerals or vitamins or proteins or metals or their compounds or amino acids (in amounts not exceeding the Recommended Daily Allowance for Indians) or enzymes (within permissible limits);

(iii) substances from animal origin;

(iv) a dietary substance for use by human beings to supplement the diet by increasing the total dietary intake;

(b) (i) a product that is labelled as a "Food for special dietary uses or functional foods or nutraceuticals or health supplements or similar such foods" which is not represented for use as a conventional food and whereby such products may be formulated in the form of powders, granules, tablets, capsules, liquids, jelly and other dosage forms but not parenterals, and are meant for oral administration;

(ii) such product does not include a drug as defined in clause (b) and ayurvedic, sidha and unani drugs as defined in clauses (a) and (h) of section 3 of the Drug and Cosmetic Act, 1940 and rules made thereunder;

23 of 1940.

(iii) does not claim to cure or mitigate any specific disease, disorder or condition (except for certain health benefit or such promotion claims) as may be permitted by the regulations made under this Act;

(iv) does not include a narcotic drug or a psychotropic substance as defined in the Schedule of the Narcotic Drugs and Psychotropic Substances Act, 1985 and rules made thereunder and substances listed in Schedules E and EI of the Drugs and Cosmetic Rules, 1945;

61 of 1985.

(2) "genetically engineered or modified food" means food and food ingredients composed of or containing genetically modified or engineered organisms obtained through modern biotechnology, or food and food ingredients produced from but not containing genetically modified or engineered organisms obtained through modern biotechnology;

(3) "organic food" means food products that have been produced in accordance with specified organic production standards;

(4) "proprietary and novel food" means an article of food for which standards have not been specified but is not unsafe:

Provided that such food does not contain any of the foods and ingredients prohibited under this Act and regulations made thereunder.

23. (1) No person shall manufacture, distribute, sell or expose for sale or despatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified by regulations:

Packaging and labelling of foods.

Provided that the labels shall not contain any statement, claim, design or device which is false or misleading in any particular concerning the food products contained in the package or concerning the quantity or the nutritive value implying medicinal or therapeutic claims or in relation to the place of origin of the said food products.

(2) Every food business operator shall ensure that the labelling and presentation of food, including their shape, appearance or packaging, the packaging materials used, the manner in which they are arranged and the setting in which they are displayed, and the information which is made available about them through whatever medium, does not mislead consumers.

24. (1) No advertisement shall be made of any food which is misleading or contravenes the provisions of this Act, the rules and regulations made thereunder.

Restrictions of advertisement and prohibition as to unfair trade practices.

(2) No person shall engage himself in any unfair trade practice for purpose of promoting the sale, supply, use and consumption of articles of food or adopt any unfair or deceptive practice including the practice of making any statement, whether orally or in writing or by visible representation which—

(a) falsely represents that the foods are of a particular standard, quality, quantity or grade-composition;

(b) makes a false or misleading representation concerning the need for, or the usefulness;

(c) gives to the public any guarantee of the efficacy that is not based on an adequate or scientific justification thereof.

Provided that where a defence is raised to the effect that such guarantee is based on adequate or scientific justification, the burden of proof of such defence shall lie on the person raising such defence.

CHAPTER V

PROVISIONS RELATING TO IMPORT

25. (1) No person shall import into India—

(i) any unsafe or misbranded or sub-standard food or food containing extraneous matter;

(ii) any article of food for the import of which a licence is required under any Act or rules or regulations, except in accordance with the conditions of the licence; and

(iii) any article of food in contravention of any other provision of this Act or of any rule or regulation made thereunder or any other Act.

All imports of articles of food to be subject to this Act.

(2) The Central Government shall, while prohibiting, restricting or otherwise regulating import of article of food under the Foreign Trade (Development and Regulation) Act, 1992, follow the standards laid down by the Food Authority under the provisions of this Act and the rules and regulations made thereunder.

CHAPTER VI

SPECIAL RESPONSIBILITIES AS TO FOOD SAFETY

Responsibilities
of the food
business
operator.

26. (1) Every food business operator shall ensure that the articles of food satisfy the requirements of this Act and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control.

(2) No food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food—

(i) which is unsafe; or

(ii) which is misbranded or sub-standard or contains extraneous matter; or

(iii) for which a licence is required, except in accordance with the conditions of the licence; or

(iv) which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health; or

(v) in contravention of any other provision of this Act or of any rule or regulation made thereunder.

(3) No food business operator shall employ any person who is suffering from infectious, contagious or loathsome disease.

(4) No food business operator shall sell or offer for sale any article of food to any vendor unless he also give a guarantee in writing in the form specified by regulations about the nature and quality of such article to the vendor:

Provided that a bill, cash memo, or invoice in respect of the sale of any article of food given by a food business operator to the vendor shall be deemed to be a guarantee under this section, even if a guarantee in the specified form is not included in the bill, cash memo or invoice.

(5) Where any food which is unsafe is part of a batch, lot or consignment of food of the same class or description, it shall be presumed that all the food in that batch, lot or consignment is also unsafe, unless following a detailed assessment within a specified time, it is found that there is no evidence that the rest of the batch, lot or consignment is unsafe:

Provided that any conformity of a food with specific provisions applicable to that food shall be without prejudice to the competent authorities taking appropriate measures to impose restrictions on that food being placed on the market or to require its withdrawal from the market for the reasons to be recorded in writing where such authorities suspect that, despite the conformity, the food is unsafe.

Liability of
the
manufacturers,
distributors
and sellers.

27. (1) The manufacturer of an article of food shall be liable for such article of food if it does not meet the requirements of this Act and the rules and regulations made thereunder.

(2) The distributor shall be liable under this Act for any article of food which is—

(a) supplied after the date of its expiry or which is likely to expire; or

(b) stored or supplied in violation of the safety instructions of the manufacturer;
or

(c) misbranded, or

(d) unidentifiable of manufacturer from whom the article of food have been received; or

(e) stored or handled or kept in violation of the provisions of this Act, the rules and regulations made thereunder.

- (3) The seller shall be liable under this Act, for any article of food which—
- (a) is sold after the date of its expiry or which is likely to expire; or
 - (b) is handled or kept in unhygienic conditions; or
 - (c) is misbranded; or
 - (d) unidentifiable the manufacturer or the distributor from whom such article of food were received; or
 - (e) received by him with knowledge of being unsafe.

28. (1) If a food business operator considers or has reason to believe that a food which it has processed, manufactured or distributed is not in compliance with this Act and the rules and regulations made thereunder, it shall immediately initiate procedures to withdraw the food in question from the market and consumers indicating reasons for its withdrawal and inform the competent authorities thereof.

Food recall
procedures.

(2) A food business operator shall immediately inform the competent authorities and co-operate with them, if it considers or has reasons to believe that a food which it has placed on the market may be injurious to human health.

(3) The food business operator shall inform the competent authorities of the action taken to prevent risks to the consumer and shall not prevent or discourage any person from co-operating, in accordance with this Act, with the competent authorities, where this may prevent, reduce or eliminate a risk arising from a food.

(4) Every food business operator shall follow such conditions and guidelines relating to food recall procedures as the Food Authority may specify by regulations.

CHAPTER VII

ENFORCEMENT OF THE ACT

29. (1) The Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of this Act.

Authorities
responsible
for
enforcement
of Act.

(2) The Food Authority and the State Food Safety Authorities shall monitor and verify that the relevant requirements of law are fulfilled by food business operators at all stages of food business.

(3) The authorities shall maintain a system of control and other activities as appropriate to the circumstances, including public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business.

(4) The Food Safety Officers shall enforce and execute within their area the provisions of this Act with respect to which the duty is not imposed expressly or by necessary implication on some other authority.

(5) The regulations under this Act shall specify which of the Food Safety Officers are to enforce and execute them, either generally or in relation to cases of a particular description or a particular area, and any such regulations or orders may provide for the giving of assistance and information, by any authority concerned in the administration of the regulations or orders, or of any provisions of this Act, to any other authority so concerned, for the purposes of their respective duties under them.

(6) The Commissioner of Food Safety and Designated Officer shall exercise the same powers as are conferred on the Food Safety Officer and follow the same procedure specified in this Act.

30. (1) The State Government shall appoint the Commissioner of Food Safety for the State for efficient implementation of food safety and standards and other requirements laid down under this Act and the rules and regulations made thereunder.

Commissioner
of Food
Safety of the
State.

(2) The Commissioner of Food Safety shall perform all or any of the following functions, namely:—

(a) prohibit in the interest of public health, the manufacture, storage, distribution or sale of any article of food, either in the whole of the State or any area or part thereof for such period, not exceeding one year, as may be specified in the order notified in this behalf in the Official Gazette;

(b) carry out survey of the industrial units engaged in the manufacture or processing of food in the State to find out compliance by such units of the standards notified by the Food Authority for various articles of food;

(c) conduct or organise training programmes for the personnel of the office of the Commissioner of Food Safety and, on a wider scale, for different segments of food chain for generating awareness on food safety;

(d) ensure an efficient and uniform implementation of the standards and other requirements as specified and also ensure a high standard of objectivity, accountability, practicability, transparency and credibility;

(e) sanction prosecution for offences punishable with imprisonment under this Act;

(f) such other functions as the State Government may, in consultation with the Food Authority, prescribe.

(3) The Commissioner of Food Safety may, by Order, delegate, subject to such conditions and restrictions as may be specified in the Order, such of his powers and functions under this Act (except the power to appoint Designated Officer, Food Safety Officer and Food Analyst) as he may deem necessary or expedient to any officer subordinate to him.

Licensing and
registration
of food
business.

31. (1) No person shall commence or carry on any food business except under a licence.

(2) Nothing contained in sub-section (1) shall apply to such petty manufacturer who himself manufactures or sells any article of food or a retailer as may be notified by the Food Authority, or a hawker, itinerant vendor or a temporary stall holder:

Provided that such petty manufacturer, retailer, hawker, itinerant vendor or a temporary stall holder shall only register their business with concerned municipality or the Panchayat, as the case may be.

(3) Any person desirous to commence or carry on any food business shall make an application for grant of a licence to the Designated Officer in such manner containing such particulars as may be specified by regulations.

(4) The Designated Officer on receipt of an application under sub-section (2), may either grant the licence or after giving the applicant an opportunity of being heard and for reasons to be recorded in writing, refuse to grant a licence to any applicant, if he is satisfied that it is necessary so to do in the interest of public health and shall make available to the applicant a copy of order:

Provided that if a licence is not issued within two months from the date of making the application or his application is not rejected, the applicant may start his food business after expiry of the said period and in such a case, the Designated Officer shall not refuse to issue a licence but may, if he considers necessary, issue an improvement notice, under section 32 and follow procedures in that regard.

(5) Every licence shall be in such form and subject to such conditions as may be specified by regulations.

(6) A single licence may be issued by the Designated Officer for one or more articles of food and also for different establishments or premises in the same area.

(7) If the articles of food are manufactured, stored, sold or exhibited for sale at different premises situated in more than one area, separate applications shall be made and separate licence shall be issued in respect of such premises not falling within the same area.

(8) An appeal against the order of rejection for the grant of licence shall lie to the Commissioner of Food Safety.

(9) A licence unless sooner suspended or cancelled shall be in force for such period as may be specified by regulations:

Provided that if an application for a renewal of licence is made before the expiry of the period of validity of the licence, the licence shall continue to be in force until orders are passed on the application.

(10) The licence shall subsist for the benefit of the deceased's personal representative or any other member of his family, until the expiry of—

(a) the period of three months beginning with his death; or

(b) such longer period as the Designated Officer may allow.

32. (1) If the Designated Officer has reasonable ground for believing that any food business operator has failed to comply with any regulations to which this section applies, he may, by a notice served on that food business operator (in this Act referred to as an "improvement notice")—

Improvement
notices.

(a) state the grounds for believing that the food business operator has failed to comply with the regulations;

(b) specify the matters which constitute the food business operator's failure so to comply;

(c) specify the measures which, in the opinion of the said Authority, the food business operator must take, in order to secure compliance; and

(d) require the food business operator to take those measures, or measures which are at least equivalent to them, within a reasonable period (not being less than fourteen days) as may be specified in the notice.

(2) If the food business operator fails to comply with an improvement notice, his licence may be suspended.

(3) If the food business operator still fails to comply with the improvement notice, the Designated Officer may, after giving the licensee an opportunity to show cause, cancel the licence granted to him:

Provided that the Designated Officer may suspend any licence forthwith in the interest of public health for reasons to be recorded in writing.

(4) Any person who is aggrieved by—

(a) an improvement notice; or

(b) refusal to issue a certificate as to improvement; or

(c) cancellation or suspension or revocation of licence under this Act,

may appeal to the Commissioner of Food Safety whose decision thereon, shall be final.

(5) The period within which such an appeal may be brought shall be—

(a) fifteen days from the date on which notice of the decision was served on the person desiring to appeal; or

(b) in the case of an appeal under sub-section (1), the said period or the period specified in the improvement notice, whichever expires earlier;

Explanation.—For the purpose of this sub-section, the making of the complaint shall be deemed to be the bringing of the appeal.

Prohibition
orders.

33. (1) If—

(a) any food business operator is convicted of an offence under this Act; and

(b) the court by or before which he is so convicted is satisfied that the health risk exists with respect to that food business,

the court, after giving the food business operator an opportunity of being heard, may by an order, impose the following prohibitions, namely :—

(i) a prohibition on the use of the process or treatment for the purposes of the food business;

(ii) a prohibition on the use of the premises or equipment for the purposes of the food business or any other food business of the same class or description;

(iii) a prohibition on the use of the premises or equipment for the purposes of any food business.

(2) The court may, on being satisfied that it is necessary so to do, by an order, impose a prohibition on the food business operator participating in the management of any food business, or any food business of a class or description specified in the order.

(3) As soon as practicable after the making of an order under sub-section (1) or sub-section (2) (in this Act referred to as a "prohibition order"), the concerned Food Safety Officer shall—

(a) serve a copy of the order on the food business operator; and

(b) in the case of an order under sub-section (1), affix a copy of the order at a conspicuous place on such premises used for the purposes of the food business,

and any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine which may extend to three lakh rupees.

(4) The concerned Food Safety Officer shall with the approval of the Designated Officer issue a certificate to the effect that the food business operator has taken sufficient measures justifying lifting of the prohibition order, within seven days of his being satisfied on an application made by the food business operator for such a certificate or the said officer shall—

(a) determine, as soon as is reasonably practicable and in any event within fourteen days, whether or not he is so satisfied; and

(b) if he determines that he is not so satisfied, give notice to the food business operator of the reasons for that determination.

(5) A prohibition order shall cease to have effect upon the court being satisfied, on an application made by the food business operator not less than six months after the prohibition order has been passed, that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

(6) The court shall give a direction on an application by the food business operator, if the court thinks it proper so to do having regard to all the circumstances of the case, including in particular, the conduct of the food business operator since the making of the order; but no such application shall be entertained if it is not made—

(a) within six months after the making of the prohibition order; or

(b) within three months after the making by the food business operator of a previous application for such a direction.

Explanation.—For the purpose of this section,—

(i) any reference above shall apply in relation to a manager of a food business as it applies in relation to the food business operator; and any reference to the food business operator of the business, or to the food business operator, shall be construed accordingly;

(ii) "manager", in relation to a food business, means any person who is entrusted by the food business operator with the day-to-day running of the business, or any part of the business.

34. (1) If the Designated Officer is satisfied that the health risk condition exists with respect to any food business, he may, after a notice served on the food business operator (in this Act referred to as an "emergency prohibition notice"), apply to the Commissioner of Food Safety for imposing the prohibition.

Emergency prohibition notices and orders.

(2) If the Commissioner of Food Safety is satisfied, on the application of such an officer, that the health risk condition exists with respect to any food business, he shall, by an order, impose the prohibition.

(3) The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business of his intention to apply for the order.

(4) As soon as practicable after the making of an emergency prohibition order, the Designated Officer shall require the Food Safety Officer to —

(a) serve a copy of the order on the food business operator of the business; or

(b) affix a copy of the order at a conspicuous place on such premises used for the purposes of that business;

and any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment for a term which may extend to two years and with fine which may extend to two lakh rupees.

(5) An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures for justifying the lifting of such order.

(6) The Designated Officer shall issue a certificate under sub-section (5) within seven days of an application by the food business operator for such a certificate and on his being not satisfied, the said officer shall give notice to the food business operator within a period of ten days indicating the reasons for such decision.

35. The Food Authority may, by notification, require registered medical practitioners carrying on their profession in any local area specified in the notification, to report all occurrences of food poisoning coming to their notice to such officer as may be specified.

Notification of food poisoning.

36. (1) The Commissioner of Food Safety shall, by order, appoint the Designated Officer, who shall not be below the rank of a Sub-Divisional Officer, to be in-charge of food safety administration in such area as may be specified by regulations.

Designated Officer.

(2) There shall be a Designated Officer for each district.

(3) The functions to be performed by the Designated Officer shall be as follows, namely:—

(a) to issue or cancel licence of food business operators;

(b) to prohibit the sale of any article of food which is in contravention of the provisions of this Act and rules and regulations made thereunder;

(c) to receive report and samples of article of foods from Food Safety Officer under his jurisdiction and get them analysed;

(d) to make recommendations to the Commissioner of Food Safety for sanction to launch prosecutions in case of contraventions punishable with imprisonment;

(e) to sanction or launch prosecutions in cases of contraventions punishable with fine;

(f) to maintain record of all inspections made by Food Safety Officers and action taken by them in the performance of their duties;

(g) to get investigated any complaint which may be made in writing in respect of any contravention of the provisions of this Act and the rules and regulations made thereunder;

(h) to investigate any complaint which may be made in writing against the Food Safety Officer; and

(i) to perform such other duties as may be entrusted by the Commissioner of Food Safety.

Food Safety
Officer.

37. (1) The Commissioner of Food Safety shall, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, as Food Safety Officers for such local areas as he may assign to them for the purpose of performing functions under this Act and the rules and regulations made thereunder.

(2) The State Government may authorise any officer of the State Government having the qualifications prescribed under sub-section (1) to perform the functions of a Food Safety Officer within a specified jurisdiction.

Powers of
Food Safety
Officer.

38. (1) The Food Safety Officer may —

(a) take a sample —

(i) of any food, or any substance, which appears to him to be intended for sale, or to have been sold for human consumption; or

(ii) of any article of food or substance which is found by him on or in any such premises;

which he has reason to believe that it may be required as evidence in proceedings under any of the provisions of this Act or of the regulations or orders made thereunder; or

(b) seize any article of food which appears to the Food Safety Officer to be in contravention of this Act or the regulations made thereunder; and

(c) keep it in the safe custody of the food business operator such article of food after taking a sample;

and in both cases send the same for analysis to a Food Analyst for the local area within which such sample has been taken:

Provided that where the Food Safety Officer keeps such article in the safe custody of the food business operator, he may require the food business operator to execute a bond for a sum of money equal to the value of such article with one or more sureties as the Food Safety Officer deems fit and the food business operator shall execute the bond accordingly.

(2) The Food Safety Officer may enter and inspect any place where article of food is manufactured, or stored for sale, or stored for the manufacture of any other article of food, or exposed or exhibited for sale and where any adulterant is manufactured or kept, and take samples of such articles of food or adulterant for analysis.

(3) Where any sample is taken, its cost calculated at the rate at which the article is usually sold to the public shall be paid to the person from whom it is taken.

(4) Where any article of food seized under clause (b) of sub-section (1) is of a perishable nature and the Food Safety Officer is satisfied that such article of food is so deteriorated that

it is unfit for human consumption, the Food Safety Officer may, after giving notice in writing to the food business operator, cause the same to be destroyed.

2 of 1974.

(5) The Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this section, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 relating to the search or inspection of a place by a police officer executing a search warrant issued under that Code.

(6) Any adulterant found in the possession of a manufacturer or distributor of, or dealer in, any article of food or in any of the premises occupied by him as such and for the possession of which he is unable to account to the satisfaction of the Food Safety Officer and any books of account or other documents found in his possession or control and which would be useful for, or relevant to, any investigation or proceeding under this Act, may be seized by the Food Safety Officer and a sample of such adulterant submitted for analysis to a Food Analyst:

Provided that no such books of account or other documents shall be seized by the Food Safety Officer except with the previous approval of the authority to which he is subordinate.

(7) Where the Food Safety Officer takes any action under clause (a) of sub-section (1), or sub-section (2), or sub-section (4) or sub-section (6), he shall, call one or more persons to be present at the time when such action is taken and take his or their signatures.

(8) Where any books of account or other documents are seized under sub-section (6), the Food Safety Officer shall, within a period not exceeding thirty days from the date of seizure, return the same to the person from whom they were seized after copies thereof or extracts therefrom as certified by that person in such manner as may be prescribed by the Central Government have been taken:

Provided that where such person refuses to so certify and a prosecution has been instituted against him under this Act, such books of account or other documents shall be returned to him only after copies thereof and extracts therefrom as certified by the court have been taken.

(9) When any adulterant is seized under sub-section (6), the burden of proving that such adulterant is not meant for purposes of adulteration shall be on the person from whose possession such adulterant was seized.

(10) The Commissioner of Food Safety may from time to time issue guidelines with regard to exercise of powers of the Food Safety Officer, which shall be binding:

Provided that the powers of such Food Safety Officer may also be revoked for a specified period by the Commissioner of Food Safety.

39. Any Food Safety Officer exercising powers under this Act or the rules and regulations made thereunder who—

(a) vexatiously and without any reasonable ground seizes any article of food or adulterant; or

(b) commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty,

shall be guilty of an offence under this Act and shall be punishable for such offence with fine which may extend to twenty-five thousand rupees.

40. (1) Nothing contained in this Act shall be held to prevent a purchaser of any article of food other than a Food Safety Officer from having such article analysed by the Food Analyst on payment of such fees and receiving from the Food Analyst a report of his analysis within such period as may be specified by regulations:

Liability of Food Safety Officer in certain cases.

Purchaser may have food analysed.

Provided that such purchaser shall inform the food business operator at the time of purchase of his intention to have such article so analysed:

Provided further that if the report of the Food Analyst shows that the article of food is not in compliance with the Act or the rules or regulations made thereunder, the purchaser shall be entitled to get refund of the fees paid by him under this section.

(2) In case the Food Analyst finds the sample in contravention of the provisions of this Act and rules and regulations made thereunder, the Food Analysts shall forward the report to the Designated Officer to follow the procedure laid down in section 42 for prosecution.

Power of search, seizure, investigation, prosecution and procedure thereof.

41. (1) The Food Safety Officer may search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food:

Provided that no search shall be deemed to be irregular by reason only of the fact that witness for the search are not inhabitants of the locality in which the place searched is situated.

(2) Save as in this Act otherwise expressly provided, provisions of the Code of Criminal Procedure, 1973 relating to search, seizure, summon, investigation and prosecution, shall apply, as far as may be, to all action taken by the Food Safety Officer under this Act.

2 of 1974.

Procedure for launching prosecution.

42. (1) The Food Safety Officer shall be responsible for inspection of food business, drawing samples and sending them to Food Analyst for analysis.

(2) The Food Analyst after receiving the sample from the Food Safety Officer shall analyse the sample and send the analysis report mentioning method of sampling and analysis within fourteen days to Designated Officer with a copy to Commissioner of Food Safety.

(3) The Designated Officer after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to the Commissioner of Food Safety for sanctioning prosecution.

(4) The Commissioner of Food Safety shall, if he so deems fit decide, within the period prescribed by the Central Government, as per the gravity of offence, whether the matter be referred to,—

(a) a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or

(b) a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a court of ordinary jurisdiction.

(5) The Commissioner of Food Safety shall communicate his decision to the Designated Officer and the concerned Food Safety Officer who shall launch prosecution before courts of ordinary jurisdiction or Special Court, as the case may be; and such communication shall also be sent to the purchaser if the sample was taken under section 40.

CHAPTER VIII

ANALYSIS OF FOOD

Recognition and accreditation of laboratories, research institutions and referral food laboratory.

43. (1) The Food Authority may notify food laboratories and research institutions accredited by National Accreditation Board for Testing and Calibration Laboratories or any other accreditation agency for the purposes of carrying out analysis of samples by the Food Analysts under this Act.

(2) The Food Authority shall, establish or recognise by notification, one or more referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratory by this Act or any rules and regulations made thereunder.

(3) The Food Authority may frame regulations specifying—

(a) the functions of food laboratory and referral food laboratory and the local area or areas within which such functions may be carried out;

(b) the procedure for submission to the said laboratory of samples of articles of food for analysis or tests, the forms of the laboratory's reports thereon and the fees payable in respect of such reports; and

(c) such other matters as may be necessary or expedient to enable the said laboratory to carry out its functions effectively.

44. The Food Authority may recognise any organisation or agency for the purposes of food safety audit and checking compliance with food safety management systems required under this Act or the rules and regulations made thereunder.

Recognition of organisation or agency for food safety audit.

45. The Commissioner of Food Safety may, by notification, appoint such persons as he thinks fit, having the qualifications prescribed by the Central Government, to be Food Analysts for such local areas as may be assigned to them by the Commissioner of Food Safety:

Food Analysts.

Provided that no person, who has any financial interest in the manufacture or sale of any article of food shall be appointed to be a Food Analyst under this section:

Provided further that different Food Analysts may be appointed for different articles of food.

46. (1) On receipt of a package containing a sample for analysis from a Food Safety Officer or any other person, the Food Analyst shall compare the seal on the container and the outer cover with specimen impression received separately and shall note the conditions of the seal thereon:

Functions of Food Analyst.

Provided that in case a sample container received by the Food Analyst is found to be in broken condition or unfit for analysis, he shall within a period of seven days from the date of receipt of such sample inform the Designated Officer about the same and send requisition to him for sending second part of the sample.

(2) The Food Analyst shall cause to be analysed such samples of article of food as may be sent to him by Food Safety Officer or by any other person authorised under this Act.

(3) The Food Analyst shall, within a period of fourteen days from the date of receipt of any sample for analysis, send :

(i) where such sample is received under section 38 or section 47, to the Designated Officer, four copies of the report indicating the method of sampling and analysis; and

(ii) where such sample is received under section 40, a copy of the report indicating the method of sampling and analysis to the person who had purchased such article of food with a copy to the Designated Officer:

Provided that in case the sample can not be analysed within fourteen days of its receipt, the Food Analyst shall inform the Designated Officer and the Commissioner of Food Safety giving reasons and specifying the time to be taken for analysis.

(4) An appeal against the report of Food Analyst shall lie before the Designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food Authority for opinion.

47. (1) When a Food Safety Officer takes a sample of food for analysis, he shall—

Sampling and analysis.

(a) give notice in writing of his intention to have it so analysed to the person from whom he has taken the sample and to the person, if any, whose name, address and other particulars have been disclosed;

(b) except in special cases as may be provided by rules made under this Act, divide the sample into four parts and mark and seal or fasten up each part in such a manner as its nature permits and take the signature or thumb impression of the person from whom the sample has been taken in such place and in such manner as may be prescribed by the Central Government:

Provided that where such person refuses to sign or put his thumb impression, the Food Safety Officer shall call upon one or more witnesses and take his signature or thumb impression, in lieu of the signature or thumb impression of such person;

(c) (i) send one of the parts for analysis to the Food Analyst under intimation to the Designated Officer;

(ii) send the remaining two parts to the Designated Officer for keeping these in safe custody; and

(iii) give one part to food business operator for making available to the said authorities, if required.

(2) When a sample of any article of food or adulterant is taken, the Food Safety Officer shall, by the immediate succeeding working day, send the sample to the Food Analyst for the area concerned for analysis and report.

(3) Where the part of the sample sent to the Food Analyst is lost or damaged, the Designated Officer shall, on a requisition made to him, by the Food Analyst or the Food Safety Officer, despatch one of the parts of the sample sent to him, to the Food Analyst for analysis.

(4) An article of food or adulterant seized, unless destroyed, shall be produced before the Designated Officer as soon as possible and in any case not later than seven days after the receipt of the report of the Food Analyst:

Provided that if an application is made to the Designated Officer in this behalf by the person from whom any article of food has been seized, the Designated Officer shall by order in writing direct the Food Safety Officer to produce such article before him within such time as may be specified in the order.

(5) In case of imported articles of food, the authorised officer of the Food Authority shall take its sample and send to the Food Analyst of notified laboratory for analysis who shall send the report within a period of five days to the authorised officer.

(6) The Designated Officer, the Food Safety Officer, the authorised officer and the Food Analyst shall follow such procedure as may be specified by regulations.

CHAPTER IX

OFFENCES AND PENALTIES

General provisions relating to offences.

48. (1) A person may render any article of food injurious to health by means of one or more of the following operations, namely:—

- (a) adding any article or substance to the food;
- (b) using any article or substance as an ingredient in the preparation of the food;
- (c) abstracting any constituents from the food; or
- (d) subjecting the food to any other process or treatment,

with the knowledge that it may be sold or offered for sale or distributed for human consumption.

(2) In determining whether any food is unsafe or injurious to health, regard shall be had to—

- (a) (i) the normal conditions of use of the food by the consumer and its handling at each stage of production, processing and distribution;

(ii) the information provided to the consumer, including information on the label, or other information generally available to the consumer concerning the avoidance of specific adverse health effects from a particular food or category of foods not only to the probable, immediate or short-term or long-term effects of that food on the health of a person consuming it, but also on subsequent generations;

(iii) to the probable cumulative toxic effects;

(iv) to the particular health sensitivities of a specific category of consumers where the food is intended for that category of consumers; and

(v) also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities;

(b) the fact where the quality or purity of the article, being primary food, has fallen below the specified standard or its constituents are present in quantities not within the specified limits of variability, in either case, solely due to natural causes and beyond the control of human agency, then such article shall not be deemed to be unsafe or sub-standard or food containing extraneous matter.

Explanation.—For the purposes of this section, “injury”, includes any impairment, whether permanent or temporary, and “injurious to health” shall be construed accordingly.

49. While adjudging the quantum of penalty under this Chapter, the Adjudicating Officer or the Tribunal, as the case may be, shall have due regard to the following:—

General provisions relating to penalty.

(a) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention,

(b) the amount of loss caused or likely to cause to any person as a result of the contravention,

(c) the repetitive nature of the contravention,

(d) whether the contravention is without his knowledge, and

(e) any other relevant factor.

50. (1) Any person who sells to the purchaser's prejudice any food which is not in compliance with the provisions of this Act or the regulations made thereunder, or of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding two lakh rupees.

Penalty for selling food not of the nature or substance or quality demanded.

(2) In a proceeding under sub-section (1), it shall not be a defence that the purchaser was not prejudiced because he bought the article of food for analysis or examination.

51. Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is sub-standard, shall be liable to a penalty which may extend to five lakh rupees;

Penalty for sub-standard food.

52. (1) Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

Penalty for misbranded food.

(2) The Adjudicating Officer may issue a direction to the person found guilty of an offence under this section, for taking corrective action to rectify the mistake or such article of food shall be destroyed.

53. (1) Any person who publishes, or is a party to the publication of an advertisement, which—

Penalty for misleading advertisement.

(a) falsely describes any food; or

(b) is likely to mislead as to the nature or substance or quality of any food or gives false guarantee,

shall be liable to a penalty which may extend to ten lakh rupees.

(2) In any proceeding the fact that a label or advertisement relating to any article of food in respect of which the contravention is alleged to have been committed contained an accurate statement of the composition of the food shall not preclude the court from finding that the contravention was committed.

Penalty for food containing extraneous matter.

54. Any person whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption containing extraneous matter, shall be liable to a penalty which may extend to one lakh rupees.

Penalty for failure to comply with the directions of the Food Safety Officer.

55. If a food business operator or importer without reasonable ground, fails to comply with the requirements of this Act or the regulations or orders issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

Penalty for unhygienic or unsanitary processing or manufacturing of food.

56. Any person who, whether by himself or by any other person on his behalf, manufactures or processes any article of food for human consumption under unhygienic or unsanitary conditions, shall be liable to a penalty which may extend to one lakh rupees.

Penalty for possessing adulterant.

57. (1) Subject to the provisions of this chapter, if any person who whether by himself or by any other person on his behalf, imports or manufactures for sale, or stores, sells or distribute any adulterant shall be liable—

(i) where such adulterant is not injurious to health, to a penalty not exceeding two lakh rupees;

(ii) where such adulterant is injurious to health, to a penalty not exceeding ten lakh rupees.

(2) In a proceeding under sub-section (1), it shall not be a defence that the accused was holding such adulterant on behalf of any other person.

Penalty for contraventions for which no specific penalty is provided.

58. Whoever contravenes any provisions of this Act or the rules or regulations made thereunder, for the contravention of which no penalty has been separately provided in this Chapter, shall be liable to a penalty which may extend to two lakh rupees.

Punishment for unsafe food.

59. Any person who, whether by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is unsafe, shall be punishable,—

(i) where such failure or contravention does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(ii) where such failure or contravention results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(iii) where such failure or contravention results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(iv) where such failure or contravention results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

60. If a person without the permission of the Food Safety Officer, retains, removes or tampers with any food, vehicle, equipment, package or labelling or advertising material or other thing that has been seized under this Act, shall be punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

Punishment for interfering with seized items.

61. If a person, in connection with a requirement or direction under this Act, provides any information or produces any document that the person knows is false or misleading, shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

Punishment for false information.

62. If a person without reasonable excuse, resists, obstructs, or attempts to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising his functions under this Act, shall be punishable with imprisonment for a term which may extend to three months and also with fine which may extend to one lakh rupees.

Punishment for obstructing or impersonating a Food Safety Officer.

63. If any person or food business operator himself or by any person on his behalf who is required to obtain licence, manufactures, sells, stores or distribute or imports any article of food without licence, shall be punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to one lakh rupees.

Punishment for carrying out a business without licence.

64. (1) If any person, after having been previously convicted of an offence punishable under this Act subsequently commits and is convicted of the same offence, he shall be liable to—

Punishment for subsequent offences.

(i) twice the punishment, which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence; and

(ii) a further fine on daily basis which may extend up to one lakh rupees, where the offence is a continuing one; and

(iii) his licence shall be cancelled.

(2) The Court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

65. (1) Without prejudice to the other provisions of this Chapter, if any person whether by himself or by any other person on his behalf, manufactures or distributes or sells or imports any article of food causing injury to the consumer or his death, it shall be lawful for the Adjudicating Officer or as the case may be, the court to direct him to pay compensation to the victim or the legal representative of the victim, a sum—

Compensation in case of injury or death of consumer.

(a) not less than five lakh rupees in case of death;

(b) not exceeding three lakh rupees in case of grievous injury; and

(c) not exceeding one lakh rupees, in all other cases of injury.

(2) Where any person is held guilty of an offence leading to grievous injury or death, the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct and the expenses of such publication shall be deemed to be part of the cost attending the conviction and shall be recoverable in the same manner as a fine.

(3) The Adjudicating Officer or the court may also,—

(a) order for cancellation of licence, re-call of food from market, forfeiture of establishment and property in case of grievous injury or death of consumer;

(b) issue prohibition orders in other cases.

Offences by
companies.

66. (1) Where an offence under this Act which has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches or different units in any establishment or branch, the concerned Chief Executive or the person in-charge of such establishment, branch, unit nominated by the company as responsible for food safety shall be liable for contravention in respect of such establishment, branch or unit.

Provided further that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm, means a partner in the firm.

Penalty for
contravention
of provisions
of this Act in
case of
import of
articles of
food to be in
addition to
penalties
provided
under any
other Act.

67. (1) Any person who imports any article of food which is in contravention of the provisions of this Act, rules and regulations made thereunder, shall, in addition to any penalty to which he may be liable under the provisions of the Foreign Trade (Development and Regulation) Act, 1992 and the Customs Act, 1962 be also liable under this Act and shall be proceeded against accordingly.

22 of 1992.
52 of 1962.

(2) Any such article of food shall be destroyed or returned to the importer, if permitted by the competent authority under the Foreign Trade (Development and Regulation) Act, 1992 or the Customs Act, 1962, or any other Act, as the case may be.

CHAPTER X

ADJUDICATION AND FOOD SAFETY APPELLATE TRIBUNAL

Adjudication.

68. (1) For the purposes of adjudication under this Chapter, an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, shall be notified by the State Government as the Adjudicating Officer for adjudication in the manner as may be prescribed by the Central Government.

(2) The Adjudicating Officer shall, after giving the person a reasonable opportunity for making representation in the matter, and if, on such inquiry, he is satisfied that the person has committed the contravention of provisions of this Act or the rules or the regulations made thereunder, impose such penalty as he thinks fit in accordance with the provisions relating to that offence.

(3) The Adjudicating Officer shall have the powers of a civil court and—

45 of 1860.

(a) all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code;

2 of 1974.

(b) shall be deemed to be a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(4) while adjudicating the quantum of penalty under this Chapter, the Adjudicating Officer shall have due regard to the guidelines specified in section 49.

69. (1) The Commissioner of Food Safety may, by order, empower the Designated Officer, to accept from petty manufacturers who himself manufacture and sell any article of food, retailers, hawkers, itinerant vendors, temporary stall holders against whom a reasonable belief exists that he has committed an offence or contravention against this Act, payment of sum of money by way of composition of the offence which such person is suspected to have committed.

Power to compound offences.

(2) On the payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person.

(3) The sum of money accepted or agreed to be accepted as composition under sub section (1), shall not be more than one lakh rupees and due regard shall be made to the guidelines specified in section 49:

Provided that no offence, for which punishment of imprisonment has been prescribed under this Act, shall be compounded.

70. (1) The Central Government or as the case may be, the State Government may, by notification, establish one or more tribunals to be known as the Food Safety Appellate Tribunal to hear appeals from the decisions of the Adjudicating Officer under section 68.

Establishment of Food Safety Appellate Tribunal.

(2) The Central Government or the State Government, as the case may be, shall prescribe, the matters and areas in relation to which the Tribunal may exercise jurisdiction.

(3) The Tribunal shall consist of one person only (hereinafter referred to as the Presiding Officer of the Tribunal) to be appointed, by notification, by the Central Government or the State Government, as the case may be:

Provided that no person shall be qualified for appointment as a Presiding Officer to the Tribunal unless he is or has been a District Judge.

(4) The qualifications, appointment, term of office, salary and allowances, resignation and removal of the Presiding Officer shall be such as may be prescribed by the Central Government.

(5) The procedure of appeal and powers of the Tribunal shall be such as may be prescribed by the Central Government.

5 of 1908

71. (1) The Tribunal shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and, subject to the other provisions of this Act and the rules made thereunder, the Tribunal shall have powers to regulate its own procedure including the place at which it shall have its sittings.

Procedure and powers of the Tribunal.

5 of 1908.

(2) The Tribunal shall have, for the purposes of discharging its functions under this Act, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of documents or other electronic records;

- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) reviewing its decisions;
- (f) dismissing an application for default or deciding it *ex parte*;
- (g) any other matter which may be prescribed by the Central Government.

(3) Every proceeding before the Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, it shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.
2 of 1974.

(4) The appellant may either appear in person or authorize one or more legal practitioners or any of its officers to represent his case before the Tribunal.

(5) The provisions of the Limitation Act, 1963, shall, except as otherwise provided in this Act, apply to an appeal made to the Tribunal. 36 of 1963.

(6) Any person aggrieved by any decision or order of the Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Tribunal to him on any question of fact or law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

Civil court
not to have
jurisdiction.

72. No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which an Adjudicating Officer or the Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

Power of
court to try
cases
summarily.

73. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences not triable by a Special Court, shall be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the said Code shall, as far as may be, apply to such a trial:

2 of 1974.

Provided that in the case of any conviction in a summary trial under this section, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year:

Provided further that when at the commencement of, or in the course of, a summary trial under this section, it appears to the Magistrate that the nature of the case is such that a sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Magistrate shall after hearing the parties, record an order to that effect and thereafter recall any witness who may have been examined and proceed to hear or rehear the case in the manner provided by the said Code.

Special courts
and Public
Prosecutor.

74. (1) Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973, the Central Government or the State Government in their respective jurisdictions may, if consider expedient and necessary in the public interest, for the purposes of the trial of offences relating to grievous injury or death of the consumer for which punishment of imprisonment for more than three years has been prescribed under this Act, constitute, by notification in the Official Gazette, as many Special Courts with the concurrence of the Chief Justice of the High Court as may be necessary for such area or areas and for exercising such jurisdiction, as may be specified in the notification.

2 of 1974.

(2) A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

(3) The trial under this Act of any offence by a Special Court shall have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall remain in abeyance.

(4) For every Special Court, the Central Government or the State Government, as the case may be, shall appoint a person to be the Public Prosecutor and may appoint more than one person to be the Additional Public Prosecutors:

Provided that the Central Government or the State Government, as the case may be, may also appoint for any case or class or group of cases, a Special Public Prosecutor.

(5) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

75. Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code of Criminal Procedure, 1973 and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Power to transfer cases to regular courts.

2 of 1974.

76. (1) Any person aggrieved by a decision or order of a Special Court may, on payment of such fee as may be prescribed by the Central Government and after depositing the amount, if any, imposed by way of penalty, compensation or damage under this Act, within forty-five days from the date on which the order was served, prefer an appeal to the High Court:

Appeal.

Provided that the High Court may entertain any appeal after the expiry of the said period of forty-five days, if it is satisfied that the appellant was prevented by sufficient cause for filing the appeal within the said period.

(2) An appeal preferred under this section shall be disposed of by the High Court by a bench of not less than two judges.

77. Notwithstanding anything contained in this Act, no court shall take cognizance of an offence under this Act after the expiry of the period of one year from the date of commission of an offence:

Time limit for prosecutions.

Provided that the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years.

78. Where at any time during the trial of any offence under this Act alleged to have been committed by any person, not being the importer, manufacturer, distributor or dealer of any article of food, the court, is satisfied, on the evidence adduced before it, that such importer, manufacturer, distributor or dealer is also concerned with that offence, then the court may, notwithstanding anything contained in sub-section (3) of section 319 of the Code of Criminal Procedure, 1973, or in section 71, proceed against him as though a prosecution has been instituted under this Act.

Power of court to implead manufacturer, etc.

2 of 1974.

79. Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973, it shall be lawful for the court of ordinary jurisdiction to pass any sentence authorised by this Act, except a sentence of imprisonment for a term exceeding six years in excess of his powers under the said section.

Magistrate's power to impose enhanced punishment.

2 of 1974.

Defences
which may or
may not be
allowed in
prosecution
under this
Act.

80. (A) Defence relating to publication of advertisements—

(1) In any proceeding for an offence under this Act in relation to the publication of an advertisement, it is a defence for a person to prove that the person carried on the business of publishing or arranging for the publication of advertisements and that the person published or arranged for the publication of the advertisement in question in the ordinary course of that business.

(2) clause (1) does not apply if the person:

(a) should reasonably have known that the publication of the advertisement was an offence; or

(b) had previously been informed in writing by the relevant authority that publication of such an advertisement would constitute an offence; or

(c) is the Food business operator or is otherwise engaged in the conduct of a food business for which the advertisements concerned were published.

(B) Defence of due diligence—

(1) In any proceedings for an offence, it is a defence if it is proved that the person took all reasonable precautions and exercised all due diligence to prevent the commission of the offence by such person or by another person under the person's control.

(2) Without limiting the ways in which a person may satisfy the requirements of clause (1), a person satisfies those requirements if it is proved:

(a) that the commission of the offence was due to—

(i) an act or default of another person; or

(ii) reliance on information supplied by another person; and

(b) (i) the person carried out all such checks of the food concerned as were reasonable in all the circumstances; or

(ii) it was reasonable in all the circumstances to rely on checks carried out by the person who supplied such food to the person; and

(c) that the person did not import the food into the jurisdiction from another country; and

(d) in the case of an offence involving the sale of food, that—

(i) the person sold the food in the same condition as and when the person purchased it, or

(ii) the person sold the food in a different condition to that in

which the person purchased it, but that the difference did not result in any contravention of this Act or the rules and regulations made thereunder, and

(e) that the person did not know and had no reason to suspect at the time of commission of the alleged offence that the person's act or omission would constitute an offence under the relevant section.

(3) In sub-clause (a) of clause (2), another person does not include a person who was—

(a) an employee or agent of the defendant, or

(b) in the case of a defendant which is a company, a director, employee or agent of that company.

(4) Without limiting the ways in which a person may satisfy the requirements of clause (1) and item (i) of sub-clause (b) of clause (2), a person may satisfy those requirements by proving that—

(a) in the case of an offence relating to a food business for which a food safety programme is required to be prepared in accordance with the regulations, the person complied with a food safety programme for the food business that complies with the requirements of the regulations, or

(b) in any other case, the person complied with a scheme (for example, a quality assurance programme or an industry code of practice) that was—

(i) designed to manage food safety hazards and based on national or international standards, codes or guidelines designed for that purpose, and

(ii) documented in some manner.

(C) Defence of mistaken and reasonable belief not available—

In any proceedings for an offence under the provisions of this Act, it is no defence that the defendant had a mistaken but reasonable belief as to the facts that constituted the offence.

(D) Defence in respect of handling food—

In proceedings for an offence under section 56, it is a defence if it is proved that the person caused the food to which the offence relates to be destroyed or otherwise disposed of immediately after the food was handled in the manner that was likely to render it unsafe.

(E) Defences of significance of the nature, substance or quality of food—

It shall be no defence in a prosecution for an offence pertaining to the sale of any unsafe or misbranded article of food to allege merely that the food business operator was ignorant of the nature, substance or quality of the food sold by him or that the purchaser having purchased any article for analysis was not prejudiced by the sale.

CHAPTER XI

FINANCE, ACCOUNTS, AUDIT AND REPORTS

81. (1) The Food Authority shall prepare, in such form and at such time in each financial year as may be prescribed by the Central Government, its budget for the next financial year, showing the estimated receipts and expenditure of the Food Authority and forward the same to the Central Government.

Budget of
Food
Authority.

(2) The Food Authority with the prior approval of the Central Government, shall adopt financial regulation which specifies in particular, the procedure for drawing up and implementing the Authority's budget.

82. (1) The Central Government may, after due appropriation, make to the Food Authority grants of such sums of money as the Central Government may think fit.

Finances of
the Food
Authority.

(2) The Food Authority on the recommendation of the Central Advisory Committee shall specify a graded fee from licensed food business operator, accredited laboratories or food safety auditors to be charged by the Commissioner of Food Safety.

83. (1) The Food Authority shall maintain proper accounts and relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India.

Accounts and
audit of Food
Authority.

(2) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Food Authority under this Act shall have the same rights and privileges and authority in connection with such audit as the Comptroller

and Auditor General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Food Authority.

(3) The accounts of the Food Authority, as certified by the Comptroller and Auditor General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Food Authority and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Annual report
of Food
Authority.

84. (1) The Food Authority shall prepare once every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving a summary of its activities during the previous year and copies of the report shall be forwarded to the Central Government and State Governments.

(2) A copy of the report received under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER XII

MISCELLANEOUS

Power of
Central
Government
to issue
directions to
Food
Authority and
obtain reports
and returns.

85. (1) Without prejudice to the foregoing provisions of this Act, the Food Authority shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Food Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the Central Government and the Food Authority as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

(3) The Food Authority shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

Power of
Central
Government
to give
directions to
State
Governments.

86. The Central Government may give such directions, as it may deem necessary, to a State Government for carrying out all or any of the provisions of this Act and the State Government shall comply with such directions.

Members,
officers of
Food
Authority
and
Commissioner
of Food
Safety to be
public
servants.

87. The Members, officers of the Food Authority and the Commissioners of Food Safety and their officers shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection of
action taken
in good faith.

88. No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Government, the Food Authority and other bodies constituted under this Act or any officer of the Central Government, the State Government or any member, officer or other employee of such Authority and bodies or any other officer acting under this Act for anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

89. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Overriding effect of this Act over all other food related laws.

90. On and from the date of establishment of the Food Authority, every employee holding office under the Central Government Agencies administering food laws immediately before that date shall hold his office in the Food Authority by the same tenure and upon the same terms and conditions of service including remuneration, leave, provident fund, retirement and other terminal benefits as he would have held such office if the Food Authority had not been established and shall continue to do so as an employee of the Food Authority or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Food Authority.

Transfer of existing employees of Central Government Agencies governing various food related Acts or Orders to the Food Authority.

91. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) salary, terms and conditions of service of Chairperson and Members other than *ex officio* Members under sub-section (2) and the manner of subscribing to an oath of office and secrecy under sub-section (3) of section 7;

(b) qualifications of Food Safety Officer under sub-section (1) of section 37;

(c) the manner of taking the extract of documents seized under sub-clause (8) of section 38;

(d) determination of cases for referring to appropriate courts and time-frame for such determination under sub-section (4) of section 42;

(e) qualifications of Food Analysts under section 45;

(f) the manner of sending sample for analysis and details of the procedure to be followed in this regard under sub-section (1) of section 47;

(g) the procedure to be followed in adjudication of cases under sub-section (1) of section 68;

(h) qualifications, terms of office, resignation and removal of Presiding Officer under sub-section (4), the procedure of appeal and powers of Tribunal under sub-section (5) of section 70;

(i) any other matter relating to procedure and powers of Tribunal under clause (g) of sub-section (2) of section 71;

(j) the fee to be paid for preferring an appeal to the High Court under sub-section (1) of section 76;

(k) form and time of preparing budget under sub-section (1) of section 81;

(l) form and statement of accounts under sub-section (1) of section 83;

(m) the form and time for preparing annual report by Food Authority under sub-section (1) of section 84; and

(n) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

Power of
Food
Authority to
make
regulations.

92. (1) The Food Authority may, with the previous approval of the Central Government and after previous publication, by notification, make regulations consistent with this Act and the rules made thereunder to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) salaries and other conditions of service of officers and other employees of the Food Authority under sub-section (3) of section 9;

(b) rules of procedure for transaction of business under sub-section (5) of section 11;

(c) other functions of the Central Advisory Committee under sub-section (2) of section 12;

(d) procedure of Scientific Committee and Panels under sub-section (4) of section 15;

(e) notifying standards and guidelines in relation to articles of food meant for human consumption under sub-section (2) of section 16;

(f) procedure to be followed by Food Authority for transaction of business at its meetings under sub-section (1) of section 17;

(g) making or amending regulations in view of urgency concerning food safety or public health under clause (d) of sub-section (2) of section 18;

(h) limits of additives under section 19;

(i) limits of quantities of contaminants, toxic substance and heavy metals, etc., under section 20;

(j) tolerance limit of pesticides, veterinary drugs residues, etc., under section 21;

(k) the manner of marking and labelling of foods under section 23;

(l) form in which guarantee shall be given under sub-section (4) of section 26;

(m) conditions and guidelines relating to food recall procedures under sub-section (4) of section 28;

(n) regulations relating to functioning of Food Safety Officer under sub-section (5) of section 29;

(o) notifying procedure for the licensing and registration of food business for the manufacture, processing or sale of safe food, the fees payable therefor, the deposit of any sum as security for the performance of the conditions of licensing and the circumstances under which such license or security may be cancelled or forfeited under section 31;

(p) the respective areas of which the Designated Officer shall be in-charge for food safety administration under sub-section (1) of section 36;

(q) procedure in getting food analysed, details of fees, etc., under sub-section (1) of section 40;

(r) functions, procedure to be followed by food laboratories under sub-section (3) of section 43;

(s) procedure to be followed by officials under sub-section (6) of section 47;

(t) financial regulations to be adopted by the Food Authority in drawing up its budget under sub-section (2) of section 81;

(u) issue guidelines or directions for participation in Codex Meetings and preparation of response to Codex matters; and

(v) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

93. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Laying of
rules and
regulations
before
Parliament.

94. (1) Subject to the powers of the Central Government and the Food Authority to make rules and regulations respectively, the State Government may, after previous publication and with the previous approval of the Food Authority, by notification in the Official Gazette, make rules to carry out the functions and duties assigned to the State Government and the State Commissioner of Food Safety under this Act and the rules and regulations made thereunder.

Power of
State
Government
to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) other functions of the Commissioner of Food Safety under clause (f) of sub-section (2) of section 30;

(b) earmarking a fund and the manner in which reward shall be paid to a person rendering assistance in detection of offence or apprehension of offender under section 95; and

(c) any other matter which is required to be, or may be prescribed or in respect of which provision is to be made by rules by the State Government.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such State Legislature consists of one House, before that House.

95. The State Government may empower the Commissioner of Food Safety to order payment of reward to be paid to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund and in such manner as may be prescribed by the State Government.

Reward by
State
Government.

96. A penalty imposed under this Act, if it is not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid.

Recovery of
penalty.

97. (1) With effect from such date as the Central Government may appoint in this behalf, the enactment and Orders specified in the Second Schedule shall stand repealed:

Repeal and
savings.

Provided that such repeal shall not affect:—

(i) the previous operations of the enactment and Orders under repeal or anything duly done or suffered thereunder; or

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under any of the enactment or Orders under repeal; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offences committed against the enactment and Orders under repeal; or

(iv) any investigation or remedy in respect of any such penalty, forfeiture or punishment,

and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed:

(2) If there is any other law for the time being in force in any State, corresponding to this Act, the same shall upon the commencement of this Act, stand repealed and in such case, the provisions of section 6 of the General Clauses Act, 1897 shall apply as if such provisions of the State law had been repealed. 10 of 1897.

(3) Notwithstanding the repeal of the aforesaid enactment and Orders, the licences issued under any such enactment or Orders, which are in force on the date of commencement of this Act, shall continue to be in force till the date of their expiry for all purposes, as if they had been issued under the provisions of this Act or the rules or regulations made thereunder.

(4) Notwithstanding anything contained in any other law for the time being in force, no court shall take cognizance of an offence under the repealed Act or Orders after the expiry of a period of three years from the date of the commencement of this Act.

Transitory provisions for food standards.

98. Notwithstanding the repeal of the enactment and Orders specified in the Second Schedule, the standards, safety requirements and other provisions of the Act and the rules and regulations made thereunder and Orders listed in that Schedule shall continue to be in force and operate till new standards are specified under this Act or rules and regulations made thereunder:

Provided that anything done or any action taken under the enactment and Orders under repeal shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act:

Milk and Milk Products Order, 1992 shall be deemed to be regulations made under this Act.

99. (1) On and from the date of commencement of this Act, the Milk and Milk Products Order, 1992 issued under the Essential Commodities Act, 1955 shall be deemed to be the Milk and Milk Products Regulations, 1992 issued by the Food Authority under this Act. 10 of 1955.

(2) The Food Authority may, with the previous approval of the Central Government and after previous publication, by notification, amend the regulations specified in sub-section (1) to carry out the purposes of this Act.

Amendments to the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992.

100. As from the notified day, the provisions of the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (herein referred to as the principal Act) shall apply subject to the following amendments, namely:— 41 of 1992.

(a) throughout the principal Act, any reference to “the Prevention of the Food Adulteration Act, 1954” shall be substituted by reference to “the Food Safety and Standards Act, 2005”; 37 of 1954.

(b) in section 12 of the principal Act, the reference to “any Food Inspector appointed under section 9 of the Prevention of the Food Adulteration Act, 1954” shall be substituted by reference to “any Food Safety Officer appointed under the Food Safety and Standards Act, 2005”; 37 of 1954.

(c) throughout the principal Act, any reference to “Food Inspector” shall be substituted by the expression “the Food Safety Officer”; and

(d) in section 21 of the principal Act, in sub-section (1), the reference to clause (a) shall be substituted by the following, namely:—

“(a) the Designated Officer or the Food Safety Officer directed under sub-section (5) of section 42 of the Food Safety and Standards Act, 2005 or”.

Power to remove difficulties.

101. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary, for removing the difficulty:

Provided that no order shall be made under this section after the expiry of the period of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

THE FIRST SCHEDULE

[See section 5 (1) (e)]

Zone I

1. Andhra Pradesh,
2. Assam,
3. Bihar,
4. Gujarat,
5. Kerala,
6. Madhya Pradesh,
7. Tamil Nadu.

Zone II

1. Maharashtra,
2. Karnataka,
3. Orissa,
4. Punjab,
5. Rajasthan,
6. Uttar Pradesh,
7. West Bengal.

Zone III

1. Jammu and Kashmir,
2. Nagaland,
3. Haryana,
4. Himachal Pradesh,
5. Manipur,
6. Tripura,
7. Meghalaya.

Zone IV

1. Sikkim,
2. Mizoram,
3. Arunachal Pradesh,
4. Goa,
5. Chhattisgarh,
6. Uttaranchal,
7. Jharkhand.

Zone V

1. Delhi,
2. Andaman and Nicobar Islands,
3. Lakshadweep,
4. Dadra and Nagar Haveli,
5. Daman and Diu,
6. Pondicherry,
7. Chandigarh.

THE SECOND SCHEDULE

(See section 97)

1. The Prevention of Food Adulteration Act, 1954 (37 of 1954).
2. The Fruit Products Order, 1955.
3. The Meat Food Products Order, 1973.
4. The Vegetable Oil Products (Control) Order, 1947.
5. The Edible Oils Packaging (Regulation) Order, 1998.
6. The Solvent Extracted Oil, De oiled Meal, and Edible Flour (Control) Order, 1967.
7. The Milk and Milk Products Order, 1992.
8. Any other order issued under the Essential Commodities Act, 1955 (10 of 1955) relating to food.

STATEMENT OF OBJECTS AND REASONS

Multiplicity of food laws, standard setting and enforcement agencies pervades different sectors of food, which creates confusion in the minds of consumers, traders, manufacturers and investors. Detailed provisions under various laws regarding admissibility and levels of food additives, contaminants, food colours, preservatives, etc., and other related requirements have varied standards under these laws. The standards are often rigid and non-responsive to scientific advancements and modernisation. In view of multiplicity of laws, their enforcement and standard setting as well as various implementing agencies are detrimental to the growth of the nascent food processing industry and is not conducive to effective fixation of food standards and their enforcement.

2. In as early as in the year 1998, the Prime Minister's Council on Trade and Industry appointed a Subject Group on Food and Agro Industries, which had recommended for one comprehensive legislation on Food with a Food Regulatory Authority concerning both domestic and export markets. Joint Parliamentary Committee on Pesticide Residues in its report in 2004 emphasized the need to converge all present food laws and to have a single regulatory body. The Committee expressed its concern on public health and food safety in India. The Standing Committee of Parliament on Agriculture in its 12th Report submitted in April, 2005 desired that the much needed legislation on Integrated Food Law should be expedited.

3. As an on going process, the then Member-Secretary, Law Commission of India, was asked to make a comprehensive review of Food Laws of various developing and developed countries and other relevant international agreements and instruments on the subject. After making an indepth survey of the International scenario, the then Member-Secretary recommended that the new Food Law be seen in the overall perspective of promoting nascent food processing industry given its income, employment and export potential. It has been suggested that all acts and orders relating to food be subsumed within the proposed Integrated Food Law as the international trend is towards modernisation and convergence of regulations of Food Standards with the elimination of multi-level and multi-departmental control. Presently, the emphasis is on (a) responsibility with manufacturers, (b) recall, (c) Genetically Modified and Functional Foods, (d) emergency control, (e) risk analysis and communication and (f) food safety and good Manufacturing Practices and process control viz., Hazard Analysis and Critical Control Point.

4. In this background, the Group of Ministers constituted by the Government of India, held extensive deliberations and approved the proposed Integrated Food Law with certain modifications. The Integrated Food Law has been named as 'The Food Safety and Standards Bill, 2005'. The main objective of the Bill is to bring out a single statute relating to food and to provide for a systematic and scientific development of Food Processing Industries. It is proposed to establish the Food Safety and Standards Authority of India, which will fix food standards and regulate/monitor the manufacturing, import, processing, distribution and sale of food, so as to ensure safe and wholesome food for the people. The Food Authority will be assisted by Scientific Committees and Panels in fixing standards and by a Central Advisory Committee in prioritization of the work. The enforcement of the legislation will be through the State Commissioner for Food Safety, his officers and Panchayati Raj/Municipal bodies.

5. The Bill, *Inter alia*, incorporates the salient provisions of the Prevention of Food Adulteration Act, 1954 (37 of 1954) and is based on international legislations, instrumentalities and Codex Alimentaries Commission (which related to food safety norms). In a nutshell, the Bill takes care of International practices and envisages an overarching policy framework and provision of single window to guide and regulate persons engaged in manufacture, marketing, processing, handling, transportation, import and sale of food. The main features of the Bill are:

(a) movement from multi-level and multi-departmental control to integrated line of command;

(b) integrated response to strategic issues like novel/genetically modified foods, international trade;

(c) licensing for manufacture of food products, which is presently granted by the Central Agencies under various Acts and Orders, would stand decentralized to the Commissioner of Food Safety and his officer;

(d) single reference point for all matters relating to Food Safety and Standards, regulations and enforcement;

(e) shift from mere regulatory regime to self-compliance through Food Safety Management Systems;

(f) responsibility on food business operators to ensure that food processed, manufactured, imported or distributed is in compliance with the domestic food laws; and

(g) provision for graded penalties depending on the gravity of offence and accordingly, civil penalties for minor offences and punishment for serious violations.

6. The abovesaid Bill is contemporary, comprehensive and intends to ensure better consumer safety through Food Safety Management Systems and setting standards based on science and transparency as also to meet the dynamic requirements of Indian Food Trade and Industry and International trade.

The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 19th August, 2005.

SUBODH KANT SAHAY.

Notes on clauses

Clause 1 provides for short title of the Bill, its extent and commencement. sub-clause (2) of clause 1 makes a provision that it extends to the whole of India.

Clause 2 makes a declaration as to the expediency of control by the Union and says that it is expedient in the public interest that the Union should take under its control the food industry. This clause enables the Union to legislate on the subject matter in the public interest.

Clause 3 defines various expressions used in the Bill. Some of the important definitions includes the definitions of unsafe food, 'advertisement' 'contaminant', 'food', 'primary food', 'extraneous matter', 'food additive', 'food business', 'food business operator', 'food safety', 'infant food', 'manufacturer', 'misbranded food', 'risk analysis', 'sale' and 'sub-standard'.

As per the definitions given in this clause,—

"food" means any substance, whether processed, partially processed or unprocessed, which is intended for human consumption and includes primary food, genetically modified or engineered food or food containing such ingredients, infant food, packaged drinking water, alcoholic drink, chewing gum and any substance, including water used into the food during its manufacture, preparation or treatment but does not include any animal feed, live animals unless they are prepared or processed for placing on the market for human consumption, plants prior to harvesting, drugs and medicinal products, cosmetics, narcotic or psychotropic substances:

Provided that the Central Government may declare, by notification in the Official Gazette, any other article as food for the purposes of the Bill having regards to its use, nature, substance or quality;

"Primary food" is an article of food, being a produce of agriculture or horticulture or animal husbandry and dairying or aquaculture in its natural form, resulting from the growing, raising, cultivation, picking, harvesting, collection or catching in the hands of a person other than a farmer.

"food safety" means assurance that food is acceptable for human consumption according to its intended use; and

"standard" in relation to any article of food, means the standard notified by the Food Authority.

Clause 4 seeks to provide for establish and incorporation of an authority to be called the Food Safety and Standards Authority of India. The head office of the Authority shall be at Delhi. However, the Authority is empowered to establish its offices at any other places in India.

Clause 5 provides for the composition of the Food Safety and Standards Authority of India. The Food Authority shall consist of a Chairperson and 18 Members. The Chairperson and the Members other than *ex officio* Members shall be appointed by the Central Government on the recommendations of the Selection Committee.

Clause 6 provides for the constitution of Selection Committee consisting of five members with Cabinet Secretary as its Chairperson, for the purpose of selection of Chairperson and Members of the Food Authority and provides for the procedure to be followed by that Committee in making recommendations for such selection.

Clause 7 contains provisions in respect of terms of office, salary, allowances and other conditions of services of Chairperson and Members of the Food Authority. It provides that the Chairperson and Members other than *ex officio* Members shall hold office for a period of 3 years and shall be eligible for re-appointment for a further period of 3 years. The Chairperson and Members shall hold office till attaining the age of 65 years and 62 years, respectively. It also provides that the Chairperson or any Member may relinquish his office by giving not

less than 3 months notice in writing to the Central Government or be removed by the Central Government in terms of the provisions of clause 8.

Clause 8 lays down the various grounds on which the Chairperson and Members of the Food Authority can be removed from office such as on the grounds of insolvency, physical or mental incapacity, conviction in an offence involving moral turpitude or having an interest prejudicial to his functions as a Member or abuse of position. A Member, however, shall not be removed unless he has been given a reasonable opportunity of being heard.

Clause 9 provides for appointment of a Chief Executive Officer and other officers and employees of the Food Authority. It provides that salaries and allowances payable to and other conditions of service of Chief Executive Officer and other officers and employees shall be determined by regulations made by the Food Authority with the approval of the Central Government.

Clause 10 prescribes that the Chief Executive Officer of the Food Authority, who shall be in the rank of Additional Secretary to the Government of India, shall be appointed by the Central Government and he shall be the legal representative of the Food Authority. The Chief Executive Officer shall be responsible for the day-to-day administration of the Authority, drawing up of proposal for the Authority's work programmes, implementing the work programmes and the decisions adopted by the Authority. Every year, the Chief Executive Officer shall also submit to the Food Authority for approval, a report covering activities of the Food Authority; programmes of work; the annual accounts of the previous year; and the budget for the coming year and he shall have administrative control over the officers and other employees of the Food Authority.

Clause 11 provides for establishment of a Central Advisory Committee by the Food Authority consisting of representatives specified therein and the Chief Executive officer shall be its *ex officio* Chairperson.

Clause 12 enumerates functions of Central Advisory Committee such as ensuring close cooperation between the Food Authority and the enforcement agencies and to advise the Food Authority on drawing up of Authority's work programmes, prioritisation of work, identifying potential risks, pooling of knowledge and such other functions as may be specified. It shall meet atleast three times in a year.

Clause 13 seeks to provide for establishment of Scientific Panels consisting of independent scientific experts, with representation of industry and consumer organizations for deliberations. The Food Authority may establish Scientific Panels as it considers necessary in addition to the Panels on food additives, flavourings, processing aids and materials in contact with food; on pesticides and antibiotics residues, etc. These Scientific Panels may be reconstituted from time to time by the Food Authority depending on the requirements.

Clause 14 seeks to provide for constitution of Scientific Committee consisting of the Chairpersons of the Scientific Panels and six independent scientific experts not belonging to any of the Scientific Panels. This Committee shall be responsible for providing scientific opinion to the Food Authority and shall have the powers for organizing public hearings. The Scientific Committee shall provide opinion on multi-sectoral issues falling within the competence of more than one Scientific Panels and setting up working groups on issues which does not fall under Scientific Panels.

Clause 15 prescribes the general procedure for the appointments of the members of the Scientific Committee and Scientific Panels and empowers the Food Authority to lay down procedure for the operation and cooperation of the Scientific Committee and Scientific Panel. These procedure relate in particular to number of members in each Scientific Panel and number of times that a member can serve on a Scientific Committee or Panels, creation and organization of Working Group, organizing the public hearings, etc.

Clause 16 enumerates in detail the duties and functions of the Food Authority. It shall be the duty of the Food Authority to regulate and monitor the manufacture, processing,

distribution, sale and import of food and shall specify by regulations, the standards and guidelines in relation to articles of food; the mechanisms and guidelines for accreditation of certification bodies engaged in certification of food business and laboratories and notify the accredited laboratories, etc. It shall also provide scientific advice and technical support to the Central and State Governments in matters of framing the policy and rules in areas which have a direct or indirect bearing on food safety; contribute to the development of international technical standards for food, sanitary and phyto-sanitary standards and to undertake any other task assigned by the Central Government to carry out the objects of the Bill. The Food Authority shall make it public without undue delay, the opinions of the Scientific Committee and Scientific Panels public immediately after adoption.

Clause 17 provides for the procedures in regards to meetings of the Food Authority, the transaction of business at its meetings and procedure of voting by the Members, etc. The Chief Executive Officer and Chairperson of the Scientific Committee may take part in its meetings but without a right to vote.

Clause 18 seeks to provide for the general principles to be followed in administration of the Bill by the Central Government, the Food Authority, the State Governments and other agencies, as the case may be, while framing regulations and specifying food safety standards or while enforcing or implementing the provisions of the Bill. The Food Authority shall, while discharging its functions, take into account the prevailing practices and conditions in the country including agricultural practices, handling, storage and transport conditions including international standards and practices, etc. The said authorities shall be guided by the general principles of Food Safety such as risk analysis, risk assessment, risk management, risk communication, transparent public consultation, protection of consumer interests, etc. It empowers the Food Authority to notify other general principles from time to time as per the requirements.

Clause 19 prohibits the use of any food additives or processing aid unless it is in accordance with the provisions of the Bill and regulations made thereunder.

Clause 20 provides that no article of food shall contain contaminants, naturally occurring toxic substances or toxins or hormone or heavy metals in excess of such quantities as may be specified by the regulations.

Clause 21 provides that no article of food shall contain insecticides, pesticides, veterinary drugs residues, antibiotic residues, solvent residues, pharmacological active substances and micro-biological counts in excess of such tolerance limit as may be specified by the regulations. It provides that no insecticide shall be used directly on articles of food except fumigants registered and approved under the Insecticide Act, 1968 (46 of 1968).

Clause 22 provides that no person shall manufacture, process or sell genetically modified articles of food, irradiated food, organic foods, functional foods, nutraceuticals, health supplements, proprietary foods and similar foods except in accordance with the provisions contained in the Bill and rules and regulations made thereunder.

Clause 23 provides that no person shall manufacture, distribute, sell or expose for sale or dispatch or deliver to any agent or broker for the purpose of sale, any packaged food products which are not marked and labelled in the manner as may be specified. Every food business operator shall ensure that the labelling and presentation of food does not mislead consumers.

Clause 24 provides for restriction on advertisement of any food which misleads or contravenes the provisions of the Bill or the rules and regulations made thereunder. It also provides for prohibition as to any unfair trade practice for the purpose of promoting sale, supply, use and consumption of articles of food or adoption of any unfair or deceptive practice to mislead the public regarding the standards, quality, quantity, usefulness or giving of any guarantee of the efficacy that is not based on an adequate or scientific justification thereof.

Clause 25 makes all imports of articles of food to be subject to the provisions of the Bill. It provides that no person shall import into India any article of food in contravention of the Bill or any rules and regulations made thereunder. It also provides that the Central Government shall, while prohibiting, restricting or otherwise regulating import of articles of food under the Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992), follow the standards laid down by the Food Authority under the provisions of this Bill and the rules and regulations made thereunder.

Clause 26 seeks to provide for the responsibilities of the food business operator to ensure that the articles of food satisfy the requirements of the Bill and the rules and regulations made thereunder at all stages of production, processing, import, distribution and sale within the businesses under his control. Sub-clause (2) provides that no food business operator shall himself or by any person on his behalf manufacture, store, sell or distribute any article of food which is unsafe or misbranded or sub-standard or contains extraneous matter or which is for the time being prohibited by the Food Authority or the Central Government or the State Government in the interest of public health. The food business operator shall not employ any person who is suffering from infectious, contagious or loathsome disease. Under sub-clause (4), no food business operator shall sell or offer for sale any article of food to any vendor unless he also gives a guarantee in writing.

Clause 27 relates to the liabilities of the manufacturer, distributors and sellers of articles of food if they do not conform to the food safety requirements of the Bill and the rules and regulations made thereunder. Sub-clause (2) provides that the seller shall be liable for any article of food which is handled or kept in unhygienic conditions making it unsafe or sold after the date of its expiry.

Clause 28.—This clause contains the provisions relating to food recall procedures. If a food business operator considers or has reason to believe that a food which it has processed, manufactured or distributed is not in compliance with the provisions of the Bill and the rules and regulations made thereunder, it shall immediately initiate procedures to withdrawal the food in question from the market and the consumers and inform the competent authorities and co-operate with them, if he considers or has reasons to believe that a food which he has placed on the market may be injurious to human health and shall inform the competent authorities of the action taken to prevent risks to the consumer.

Clause 29 provides that the Food Authority and the State Food Safety Authorities shall be responsible for the enforcement of the provisions of the Bill. It empowers the said authorities to monitor and verify that the relevant requirements are fulfilled by food business operators, maintain a system of control, public communication on food safety and risk, food safety surveillance and other monitoring activities covering all stages of food business. Sub-clause (4) empowers the Food Safety officer to enforce and execute within their area the provisions of this Bill. It also empowers the Commissioner of Food Safety and Designated Officer to exercise the same powers as is conferred on the Food Safety Officer and follow the same procedure specified in the Bill.

Clause 30 empowers the State Government to appoint Commissioner of Food Safety for the State for efficient implementation of food safety and standards and other requirements laid down under the Bill or the rules and regulations made thereunder. It enumerates the functions of the Commissioner of Food Safety, such as, prohibiting manufacture, storage, distribution or sale of any article of food in the interest of public health, carrying out survey of the industrial units engaged in the manufacture or processing of food, conducting or organising training programmes for the personnel, generating awareness on food safety, ensure an efficient and uniform implementation of the standards, sanction prosecution for offences and such other functions as the State Government may, in consultation with the Food Authority, prescribe.

Clause 31 provides for licensing the registration of food business. It provides that no person shall commence or carry on any food business except under a licence issued by a

Designated Officer authorised by the Commissioner of Food Safety. An appeal against the order of the Designated Officer shall lie with the Commissioner of Food Safety. Sub-clause (8) of the Bill provides that every petty manufacturer who himself manufactures and sell any article of food, retailer, hawker, itinerant vendor, temporary stall holder shall only register their business with the concerned municipality or the Panchayat the case may be.

Clause 32 contains provisions for issuing improvement notices to the food businesses which fails to comply with the requirements of the Bill. The Designated Officer may serve an improvement notice if he has reasonable grounds for believing that the proprietor or a food business operator has failed to comply with any regulations and in the event of failure to comply with such improvement notice, the licence may be suspended or cancelled. Any person who is aggrieved by an improvement notice may appeal to Commissioner of Food Safety whose decision thereon shall be final.

Clause 33 empowers the court to issue prohibition orders in cases where the food business operator is convicted of an offence under the Bill; and the court by or before which he is so convicted is satisfied that the health risk exists with respect to that business. Any person who knowingly contravenes such an order shall be guilty of an offence and be punishable with a fine which may extend to three lakhs rupees. A prohibition order shall cease to have effect upon the court being satisfied on an application made by the food business operator not less than six months after the prohibition order has been passed that the food business operator has taken sufficient measures justifying the lifting of the prohibition order.

Clause 34 empowers the Commissioner of Food Safety to serve emergency prohibition notices and orders to the food business operators if the Designated Officer is satisfied that the health risk condition exist with respect to any food business, and on an application made by him to the Commissioner of Food Safety for imposing the appropriate prohibition. The Designated Officer shall not apply for an emergency prohibition order unless, at least one day before the date of the application, he has served notice on the food business operator of the business of his intention to apply for the order. Any person who knowingly contravenes such an order shall be guilty of an offence and shall be punishable with imprisonment of a term which may extend to two years and with fine which may extend to rupees two lakhs. An emergency prohibition order shall cease to have effect on the issue by the Designated Officer of a certificate to the effect that he is satisfied that the food business operator has taken sufficient measures to secure that the health risk condition exists no longer fulfilled with respect to the business justifying the lifting such order.

Clause 35 requires the Food Authority to notify registered medical practitioners carrying on their profession in any local area specified in the notification, to report all occurrences of food poisoning coming to their notice to such officer as may be specified.

Clause 36 empowers the Commissioner of Food Safety of the State to appoint, by order, the Designated Officer who shall not be below to the rank of a sub-Divisional Officer, to be in-charge of food safety administration in such areas as may be specified. It enumerates the functions to be performed by the Designated Officer which includes issuing or cancellation of licence of food business operators as the Licensing Authority, to prohibit the sale of any article of food which are not as per prescribed standards, to receive report and samples of article of foods from Food Safety Officer, to make recommendations to commissioner of Food Safety for sanction to launch prosecutions in case of contraventions punishable with imprisonment or with fine, to investigate any complaint which may be made in writing against the Food Safety Officer, and to perform such other duties as may be entrusted to him by the Commissioner of Food Safety.

Clause 37 empowers the Commissioner of Food Safety Officers in consultation with the State Government, by notification, for such local areas as it may assign to them for the purpose of performing its functions under the Bill. It provides that the State Government may authorize any officer of the State Government having the prescribed qualifications to perform the functions of a Food Safety Officer within a specified jurisdiction.

Clause 38 enumerates in detail, the powers of the Food Safety Officer, which include taking of a sample of any article of food seizure of any article intended for food which appears to the Food Safety Officer to be in contravention of the Bill or the regulations or orders made thereunder, power to enter and inspect any place where article of food is manufactured, or stored for sale, etc. It provides that the Food Safety Officer shall, in exercising the powers of entry upon, and inspection of any place under this clause, follow, as far as may be, the provisions of the Code of Criminal Procedure, 1973 relating to the search or inspection of a place by a police officer executing a search warrant issued under that code.

Clause 39 provides that any Food Safety Officer exercising powers under the Bill or under the rules and regulations made thereunder who vexatiously and without any reasonable ground seizes any article of food or commits any other act to the injury of any person without having reason to believe that such act is necessary for the execution of his duty, shall be guilty of any offence under the Bill and shall be punishable for such offence with fine which may extend to twenty-five thousand rupees.

Clause 40 enables the purchaser of any article of food to get analyzed such food from the Food Analyst after informing the food business operator at the time of purchase of his intention to have such article so analyzed. In case the Food analyst finds the sample in contravention of the provisions of the Bill, he shall follow the procedure prescribed under the Bill for prosecution.

Clause 41 empowers the Food Safety Officer to search any place, seize any article of food or adulterant, if there is a reasonable doubt about them being involved in commission of any offence relating to food. However, no search shall be deemed to be irregular by reason only of the fact that witnesses for the search are not inhabitants of the locality in which the place searched is situated.

Clause 42 lays down procedure for launching prosecutions. It provides that the Designated Officer, after scrutiny of the report of Food Analyst shall decide as to whether the contravention is punishable with imprisonment or fine only and in the case of contravention punishable with imprisonment, he shall send his recommendations within fourteen days to Commissioner of Food Safety for sanctioning prosecution. In case the contravention is punishable with fine only, he shall himself adjudicate and dispose off the case. It also provides that the Commissioner of Food Safety shall, if he so deems fit, decide within the prescribed period as per the gravity of offence, whether the matter be referred to a court of ordinary jurisdiction in case of offences punishable with imprisonment for a term up to three years; or a Special Court in case of offences punishable with imprisonment for a term exceeding three years where such Special Court is established and in case no Special Court is established, such cases shall be tried by a court of ordinary jurisdiction.

Clause 43 contains the provisions relating to recognition and accreditation of laboratories, research institutions and referral food laboratory. It empowers the Food Authority to, recognize any food laboratory and research institution as accredited by National Accreditation Board for Testing and Calibration Laboratories (NABL) or similar accreditation agency for the purposes of carrying out analysis of samples by the Food Analysts; establish or recognize one or more referral food laboratory or laboratories to carry out the functions entrusted to the referral food laboratory, frame regulations specifying the functions of food laboratory and referral food laboratory, the procedure for submission of samples of articles of food to the laboratory for analysis or tests.

Clause 44 provides for recognition of organisation or agency for food safety audit by the food authority for the purposes of food safety audit and checking compliance with safety management systems required under the Bill or the rules or regulations made thereunder.

Clause 45 empowers the Commissioner of Food Safety of the State to appoint Food Analysts for such local areas as may be assigned to them. However, no person who has any financial interest in the manufacture or sale of any article of food shall be appointed as a Food Analyst.

Clause 46 enumerates the functions of the Food Analysts. It provides that the Food Analyst shall cause to be analyzed such samples of article of Food as may be sent to him by Food Safety Officer or by any other person authorized under the Bill. The Food Analyst shall send a report of the result of such analysis to the Designated Officer within a period of fourteen days from the date of receipt of such sample. An appeal against the report of Food Analyst shall lie before the designated Officer who shall, if he so decides, refer the matter to the referral food laboratory as notified by the Food authority for opinion.

Clause 47 provides for the procedures for sampling and analysis of articles of foods. When a sample of any article of food or adulterant is taken, the Food Safety Officer shall, by the immediately succeeding working day, send the sample in accordance with the rules prescribed for sampling to the Food Analysts for the area concerned. An article of food or adulterant seized, unless destroyed, shall be produced before the Designated Officer as soon as possible and in any case not later than seven days after the receipt of the report of the Food Analyst.

Clause 48 provides for generation provisions relating to offences. In determining whether any food is injurious to health, regard shall be had to the particular health sensitivities of a specific category of consumer where the food is intended for that category of consumers but also to the probable cumulative effect of food of substantially the same composition on the health of a person consuming it in ordinary quantities. For the purposes of the Chapter on Offences and penalties, "injury" includes any impairment, whether permanent or temporary, and "injurious to health" shall be construed accordingly.

Clause 49 provides for general provisions relating to penalties. It provides that while adjudging the quantum of penalty, the adjudicating officer or the Tribunal, as the case may be, shall have due regard to,

- (a) the amount of gain or unfair advantage, wherever quantifiable, made as a result of the contravention;
- (b) the amount of loss caused to any person as a result of the contravention;
- (c) the repetitive nature of the contravention;
- (d) whether the contravention is willful; and
- (e) any other relevant factor.

Clause 50 provides penalty for selling food not of the nature or substance or quality demanded. It provides that any person, who sells to the purchaser's prejudice any food which is not in compliance with the provision of this Act and the regulation made thereunder of the nature or substance or quality demanded by the purchaser, shall be liable to a penalty not exceeding two lakh rupees.

Clause 51 provides penalty for manufacturing, selling, storing or import, etc., of sub-standard, food for human consumption and makes it liable to a fine which may extend to five lakh rupees.

Clause 52 provides penalty for misbranded food. Any person who whether by himself or by any other person on his behalf manufactures for sale or stores or sells or distributes or imports any article of food for human consumption which is misbranded, shall be liable to a penalty which may extend to three lakh rupees.

Clause 53 provides penalty for misleading advertisement and makes it liable to a fine which may extend to ten lakh rupees.

Clause 54 provides penalty for food containing extraneous matter or import of such foods and makes it liable to a fine which may extend to one lakh rupees.

Clause 55 provides that if a food business operator or importer without reasonable ground, fails to comply with the requirements of the Bill or the rules, regulations or orders

issued thereunder, as directed by the Food Safety Officer, he shall be liable to a penalty which may extend to two lakh rupees.

Clause 56 provides penalty for unhygienic or unsanitary processing or manufacturing of food and makes it liable to a fine which may extend to one lakh rupees.

Clause 57 provides penalty for manufacture, sales, distribution or import of any adulterant.

Clause 58 Provides penalty for contravention of any provisions of the Bill or the rules or regulations made thereunder for which no specific penalty is provided and makes such contravention liable to a fine which may extend to two lakh rupees.

Clause 59 seeks to provide punishment for unsafe food and makes the offence punishable, where such failure or contravention,—

(i) does not result in injury, with imprisonment for a term which may extend to six months and also with fine which may extend to one lakh rupees;

(ii) results in a non-grievous injury, with imprisonment for a term which may extend to one year and also with fine which may extend to three lakh rupees;

(iii) results in a grievous injury, with imprisonment for a term which may extend to six years and also with fine which may extend to five lakh rupees;

(iv) results in death, with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and also with fine which shall not be less than ten lakh rupees.

Clause 60 seeks to provide punishment for interfering with seized items and makes the offence punishable with imprisonment for a term which may extend to six months and also with fine which may extend to two lakh rupees.

Clause 61 seeks to provide punishment for false information and producing any document by a person in connection with a requirement or direction under the Bill, knowing it to be false or misleading, and makes him punishable with imprisonment for a term which may extend to three months and also with fine which may extend to two lakh rupees.

Clause 62 seeks to provide punishment to any person who without reasonable excuse, resists, obstructs or attempt to obstruct, impersonate, threaten, intimidate or assault a Food Safety Officer in exercising of his functions under the Bill, and makes him punishable with imprisonment for a term which may extend to three months and also with a fine which may extend to one lakh rupees.

Clause 63 seeks to provide punishment for carrying out a business of manufacturing, selling, storing or distributing or importing any article of food without a licence by any person or a food business operator either himself or by any person on his behalf, who is required to obtain a licence under the Bill, and makes him punishable with imprisonment for a term which may extend to six months and also with a fine which may extend to one lakh rupees.

Clause 64 seeks to provide punishment for subsequent offences and makes the offender liable to twice the punishment which might have been imposed on a first conviction, subject to the punishment being maximum provided for the same offence; and a further fine on daily basis which may extend upto one lakh rupees, where the offence is a continuing one, and cancellation of his licence. The court may also cause the offender's name and place of residence, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the court may direct.

Clause 65 provides for compensation in case of injury or death of consumer and makes the offender liable to pay compensation to the victim or the legal representative of the victim a sum not less than five lakhs rupees in case of death; and sum not exceeding

three lakhs rupees in case of grievous injury; and a sum not exceeding one lakh rupees, in all other cases of injury. Where any person is held guilty of an offence leading to grievous injury or death the Adjudicating Officer or the court may cause the name and place of residence of the person held guilty, the offence and the penalty imposed to be published at the offender's expense in such newspapers or in such other manner as the Adjudicating Officer or the court may direct in case of grievous injury or death of consumer and may also order for cancellation of licence, re-call of food from market, forfeiture of establishment and property, or issue prohibition orders in other cases.

Clause 66 provides for liabilities relating to offences by companies.

Clause 67 provides penalty for contravention of provision of the Bill in case of import of articles of food to be in addition to penalties provided under any other Act.

Clause 68 authorises the State Government to notify an officer not below the rank of Additional District Magistrate of the district where the alleged offence is committed, as the Adjudicating Officer for adjudication in the manner as may be prescribed. Such Adjudicating Officer shall have the powers of a civil court and all proceedings before him shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and shall be deemed to a court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974). Any person who is aggrieved by a decision of an Adjudicating Officer may appeal to the Commissioner of Food Safety or such other officer, within thirty days from the date on which order was served on the person desiring to make appeal, if a Food Appellate Tribunal has not been established.

Clause 69 empowers the Designated Officer to accept from petty manufacturer who himself manufactures and sell any article of food, retailers, hawkers, itinerant vendors, temporary stall holders against whom a reasonable belief exists that he has committed an offence against this Act, payment of sum of money which shall not be more than one lakh rupees by way of composition of the offence which such person is suspected to have committed. On payment of such sum of money to such officer, the suspected person, if in custody, shall be discharged and no further proceedings in respect of the offence shall be taken against such person. No offence, for which punishment of imprisonment has been prescribed, shall be compounded.

Clause 70 makes enabling provisions for establishment of tribunals to be known as the Food Safety Appellate Tribunal consisting of one person only as the presiding officer of the Food Safety Appellate Tribunal to be appointed by the Central Government or the State Government as the case may be. The qualifications, appointment, term of office, or allowances, resignation and removal of the Presiding Officer, the procedure of appeal and powers of the Tribunal shall be such as may be prescribed.

Clause 71 provides for procedure and powers of the Food Safety Appellate Tribunal. The Food Safety Appellate Tribunal shall have, for the purposes of discharging its functions under the Bill, the same powers as are vested in civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of certain matters. An appeal against the decision or order of the Food Safety Appellate Tribunal may file before the High Court within sixty days from the date of communication of the decision or order of the Tribunal.

Clause 72 bars a civil court from entertaining any suit or proceeding in respect of any matter which an Adjudicating Officer appointed under the Bill or the Food Safety Appellate Tribunal constituted under the Bill is empowered and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under the Bill.

Clause 73 empowers the court to try cases summarily and provides that all offences not triable either by an Adjudicating Officer or by a Special Court be tried in a summary way by a Judicial Magistrate of the first class or by a Metropolitan Magistrate and the provisions of sections 262 to 265 (both inclusive) of the Code of Criminal Procedure, 1973 shall, as far as

may be, apply to such a trial, provided that in the case of any conviction in a summary trial under this clause, it shall be lawful for the Magistrate to pass a sentence of imprisonment for a term not exceeding one year.

Clause 74 empowers the Central Government or the State Government in their respective jurisdictions to constitute Special Courts for trial of offences relating to grievous injury or death of the consumer for which punishment of imprisonment for more than three years has been prescribed. For every Special Court, the Central Government or the State Government, as the case may be, shall appoint a person to be the Public Prosecutor and may appoint more than one person to be the Additional Public Prosecutors.

Clause 75 provides that where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall transfer the case for the trial of such offence to any court having jurisdiction under the Code of Criminal Procedure, 1973 and the court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Clause 76 makes provision for appeal against the decision or order of a Special Court to the High Court within forty-five days from the date on which the order was served. An appeal preferred under this clause shall be disposed of by the High Court by a bench of not less than two judges.

Clause 77 provides that no court shall take cognizance of an offence under the Bill after the expiry of the period of one year from the date of commission of an offence unless the Commissioner of Food Safety may, for reasons to be recorded in writing, approve prosecution within an extended period of up to three years.

Clause 78 empowers the court to implead importer, manufacturer, distributor, etc. Where at any time during the trial of any offence under the Bill alleged to have been committed by any person, not being the importer, manufacturer, distributor or dealer of any article of food, the court, is satisfied, on the evidence adduced before it, that such importer, manufacturer, distributor or dealer is also concerned with that offence, then the court may, proceed against him as through a prosecution has been instituted against him under the Bill.

Clause 79 empowers the court of ordinary jurisdiction to pass any sentence authorised under the Bill, except a sentence of imprisonment for a term exceeding six years.

Clause 80 makes provision for Defences which may or may not be allowed in prosecution under the Bill. Those defences have been categorized as —

- (a) defence relating to publication of advertisements,
- (b) defence of due diligence,
- (c) defence of mistaken and reasonable belief not available,
- (d) defence in respect of handling food,
- (e) defences of significance of the nature, substance or quality of food.

Clause 81 provides that the Food Authority shall prepare its budget for the next financial year, showing estimated receipts and expenditure of the Food Authority and forward the same to the Central Government. The Food Authority with the prior approval of the Central Government, shall adopt financial regulation which specifies in particular the procedure for drawing up and implementing the Authority's budget.

Clause 82 provides that the Central Government may after due appropriation, make grants to the Food Authority to be utilized for the purposes of the Bill. The Food Authority on the recommendation of the Central Advisory Committee shall specify a graded fee from licensed food business operator, accredited laboratories or food safety auditors to be charged by the Commissioner of Food Safety.

Clause 83 provides that the Food Authority shall maintain proper accounts and relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor General of India. The Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

Clause 84 requires the Food Authority to prepare once every year, an annual report of its activities during the previous year and to forward the same to the Central Government and State Governments. Such report shall be laid before each House of Parliament.

Clause 85 empowers the Central Government to issue directions to the Food Authority on matter of policy and in obtaining reports and returns. If any dispute arises between the Central Government and the Food Authority as to whether a question is or is not a question of policy, the decision of the Central Government thereon shall be final.

Clause 86 empowers the Central Government to give such directions to the State Government as it may deem necessary, for carrying out all or any of the provisions of the Bill.

Clause 87 provides for the Members, officers of the Food Authority and the Commissioners of Food Safety and their officers shall be deemed, when acting or purporting to act in pursuance of any of the provisions of the Bill, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Clause 88 seeks to provide protection to the Central Government, the State Government, the Food Authority and other bodies constituted under the Bill or any officer of the Central Government, the State Government or any Member, officer or other employee of such Authority and bodies or any other officer acting under the Bill for anything which is in good faith done or intended to be done.

Clause 89 provides for overriding effect of the Bill over all other food related laws.

Clause 90 provides for transfer of existing employee of the Central Government Agencies administering food laws to the Food Safety and Standards Authority of India on and from the date of establishment of that Authority by the same tenure and upon the same terms and conditions of service or until the expiry of the period of six months from that date if such employee opts not to be the employee of the Food Authority.

Clause 91 empowers the Central Government by notification in the Official Gazette, to make rules for carrying out the provisions of the Bill. It enumerates the various matters in respect of which the Central Government may make rules, such as, the salary and allowances payable to, and other terms and conditions of service of the Members and officers and staff of the Food Authority; qualifications of Food Safety Officer and Food Analysts, the manner of holding inquiry by the Food Appellate Tribunal; and other related matters.

Clause 92 empowers the Food Authority to make, with the previous approval of the Central Government, by the notification, regulations for carrying out the provisions of the Bill. It enumerates the various matters in respect of which the Authority can make regulations, such as notifying standards and guidelines in relation to articles of food meant for human consumption; notifying procedure for the licensing and registration of food business for the manufacture, processing or sale of safe food, notifying guidelines for the manufacture, and sale of food including genetically modified articles of food, health and functional foods or any other foods; issue codes of recommended practices in consultation with the concerned organizations as regards the execution and enforcement of the Bill and of regulations and orders made under it.

Clause 93 provides for laying of every rule and every regulations made under the Bill before each House of Parliament.

Clause 94 empowers the State Governments to make, by the notification in the Official Gazette, rules for carrying out the provisions of the Bill. It enumerates matters in respect of

which the State Government, can make rules, such as making rules to provide for other functions of the Commissioner of Food Safety, rules necessary to enforce provisions of the Bill. Every rule made by the State Government under the Bill shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses or where such Legislature consists of one House, before that House.

Clause 95 makes enabling provisions under which the State Government may empower the Commissioner of Food Safety to order payment of reward to a person who renders assistance in the detection of the offence or the apprehension of the offender, from such fund and in such manner as may be prescribed.

Clause 96 provides that a penalty imposed under the Bill, if it is not paid, shall be recovered as an arrear of land revenue and the defaulters licence shall be suspended till the penalty is paid.

Clause 97 seeks to repeal the enactment and orders specified in the Second Schedule immediately with effect from the date on which the Bill is enacted and comes into force, provided that such repeal shall not affect (i) the previous operations of the enactments under repeal or anything duly done or suffered thereunder; or (ii) any right, privilege, obligation or liability acquired, accrued or incurred under any of the enactments under repeal; or (iii) any penalty, forfeiture or punishment incurred in respect of any offences committed against the enactments under repeal; or (iv) any investigation, or remedy in respect of any such penalty, forfeiture or punishment, and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if the Bill had not been passed. If there is any other law for the time being in force in any State, corresponding to the Bill, the same shall, upon the commencement of the Bill, stand repealed and in such case, the provisions of section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply as if such provisions of the State law had been repealed. It also provides that the standards, safety requirements and other provisions of the Acts, rules, regulations and orders listed in the Second Schedule shall continue to operate and be in force till new provisions are prescribed under the Bill and the rules and regulations made thereunder.

Clause 98 provides that notwithstanding the repeal of the enactment and orders specified in the Second Schedule the standards, safety requirements and other provisions of the Acts, rules, regulations and orders listed in that Schedule shall continue to be in force and operate till new standards are specified under the Bill or rules and regulations made thereunder.

Clause 99 provides that on and from the date of commencement of the Bill, the Milk and Milk Products Order, 1992 issued under the Essential Commodities Act, 1955 shall be deemed to be the Milk and Milk Products Regulations, 1992 issued by the Food Authority under the Bill.

Clause 100 it makes certain amendments in the Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992 (41 of 1992).

Clause 101 seeks to empower the Central Government to remove difficulties that may arise in giving effect to the provisions of the Bill within a period of three years from the date of its commencement. Every order made under this clause shall be laid, as soon as may be after it is made, before each House of Parliament.

The First Schedule outlines the Zones from which the States and the Union territories will get representation in the Food Authority.

The Second Schedule gives the details of Food Act/Orders which will stand repealed on commencement of the provisions of the Bill.

FINANCIAL MEMORANDUM

Clause 4 provides that the Central Government shall establish a body to be known as the Food Safety and Standards Authority of India to exercise the powers conferred on, and to perform the functions assigned to it, under the Bill. In terms of clause 7 of the Bill, the Central Government shall prescribe the salary, allowances and other terms and conditions of service of the Chairperson and other Members of the Food Authority. Clause 9 provides that the Central Government shall appoint a Chief Executive Officer of the Food Authority and that Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Authority in the discharge of its functions under the Bill and determine their terms and conditions of the service including the salaries and allowances.

2. Clause 81 of the Bill prescribes that the Authority shall prefix in each financial year, its budget for the next financial year shown the estimated receipts and expenditure of the Authority and forward the same to the Central Government.

3. Clause 82 provides that the Central Government may, after due appropriation make grants of such sums of money as it may think fit, to the Food Authority to be utilized for the purposes of the Bill. Sub-clause (2) provides that the Food Authority shall specify graded fee from licensed food business operator, accredited laboratories or Food Safety Auditors to be charged by the Commissioner of Food Safety.

4. Clause 90 of the Bill provides for the transfer of existing employees of the Central Government agencies administering various food laws to the Food Authority, on and from the date of establishment of the Food Authority or until the expiry of the period of six months from that date, if such employee opts not to be the employee of the Food Authority. The expenditure relating to the employees so transferred to the Food Authority shall be met with the existing budgetary allocations.

5. It is estimated that there would be an expenditure of ten crores of rupees in the first year of establishment of the Food Authority, to be borne by the Central Government. This would include non-recurring capital expenditure of three crores of rupees and a further recurring expenditure of seven crores of rupees towards salaries and allowances, rent for office accommodation, etc.

6. The Bill if enacted and brought into operation, would involve expenditure from the Consolidated Fund of India as mentioned above and is not likely to involve any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 91 of the Bill empowers the Central Government to make, by notification in the Official Gazette, rules for carrying out the provisions of the Bill. Sub-clause (2) enumerates the matters in respect of which such rules may be made. These *inter alia*, includes prescribing salary, allowances and other terms and conditions of service of, the Members, officers, and staff of the Food Authority, the manner of holding inquiry by Food Appellate Tribunal, issue directions or guidelines in regard to international issues relating to food standards and safety and any other matter which is required to or may be, prescribed or in respect of which provision is to be made by rules by the Central Government.

2. Clause 92 of the Bill empowers the Food Authority to make regulations, with the approval of the Central Government and after previous publication, for carrying out the provisions of the Bill. Such regulations should be consistent with the Bill and the rules made thereunder. The matters in respect of which the Food Authority may make regulations, *inter alia*, include notifying standards and guidelines in relation to articles of food meant for human consumption, notifying procedure for the licensing and registration of food business for the manufacture, processing or sale of safe food, the fees payable therefor, the deposit of any sum as security for the performance of the conditions of licensing and the circumstances under which such licence or security may be cancelled or forfeited, notifying guidelines, for the manufacture and sale of food including genetically modified articles of food, health and functional foods or any other foods, issue guidelines or directions for participation in codes meetings regulating the procedure for the transaction of business at its meetings, and other related matters.

3. All rules and regulations made under the Bill shall be required to be laid before each House of Parliament.

4. Clause 94 empowers the State Government to make rules on matters specified therein. It also makes provision for laying of such rules before the State Legislature.

5. The matters in respect of which rules and regulations may be made are matters of procedure and administrative detail, and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is therefore of a normal character.

P. D. T. ACHARY,
Secretary-General.